

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4670 of 2015

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1. Prof. Dr. Bibha Lata Keshari, D/o Sri B.P. Keshari, at present posted at Govt. Women's Polytechnic, Phulwari Sharif, Patna.
 2. Prof. Dr. Shlok Kumar Chakravarti S/o Late Mauzi Singh, at present posted at Govt. Polytechnic Gulzarbag, Patna.
 3. Prof. Dr. Ram Naresh Singh, S/o Late Nasiba Singh, at present Posted at New Govt. Polytechnic, Patna.
 4. Dr. Pramod Kumar S/o Late Ram Ekbal Ram, at present posted at State Board of Technical Education, Department of Science and Technology, Govt. of Bihar, Patna.
 5. Prof. Dr. Vinay Kumar Choudhari S/o Sri Rajendra Choudhari, at present posted at Nalanda College of Engineering Chandi, District- Nalanda.
 6. Prof. Dr. Vijay Kumar, S/o Late Kishori Prasad, at present posted at New Govt. Polytechnic, Patna.
 7. Prof. Dr. Alok Kumar Singh S/o Sri Laxmi Prasad, at present posted at Nalanda College of Engineering, Chandi District- Nalanda.
 8. Prof. Lalita Singh, W/o Siddarth singh, at present posted at Govt. Women's Polytechnic, Phulwarisharif, Patna.
 9. Prof. Dr. Nirja Ojha W/o Dr. S.K. Ojha, at present posted at Govt. Women's Polytechnic Phulwarisharif, Patna.
 10. Prof. Dr. Nirupma W/o Kumar Shekhar Singh, at present posted at Govt. Women's Polytechnic, Phulwari Sharif, Patna.
 11. Prof. Dr. Usha Kumari W/o Sri Raghu Bansh Singh, at present posted at Govt. Women's Polytechnic, Phulwari Sharif, Patna.
 12. Prof. Dr. Mahadeo Yadav S/o Late Shihala Gope, at present posted at Govt. Women's Polytechnic, Phulwarisharif, Patna.
 13. Prof. Dr. Ramesh Kumar Singh S/o Late Braj Bhushan Kumar, at Present posted at Govt. Polytechnic, Gulzarbag.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, Patna.
3. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Patna.
4. The Principal Secretary, Department of Science and Technology, Govt. of Bihar, Patna.
5. The Director, Department of Science and Technology, Govt. of Bihar, Patna.
6. The Additional Secretary, Department of Science and Technology, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar
For the State : Mr. K.K.Singh, AC to SC 4
For the BPSC : Mr Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-05-2015



The petitioners have jointly filed the writ application for quashing the advertisement no.2 of 2015, published in daily newspaper 'Hindustan' on 4.2.2015 where invitations have been extended to eligible candidates by Bihar Public Service Commission on the post of Principal in Government Polytechnic/ Government Women's Polytechnic across the State.

The reason for seeking quashing of the advertisement as well as a direction for fresh advertisement is that in the advertisement the respondent BPSC has left out the branch of Humanities and Science as one of the stream which should form the pool for selection of candidates.

The present advertisement contained in Annexure- 1 confines the selection to candidates having Bachelor or Master degree in appropriate branch in Engineering/ Technology with first class or equivalent either at Bachelor's or Master's level or Ph.D. in appropriate discipline in Engineering/ Technology.

The posts of the Principals have been lying vacant for the long time. The minimum benchmark required for such selection and appointment is guided by the guidelines issued by the All India Counsel for Technical Education (AICTE).

Submission of the counsel for the petitioners is that in terms of Annexure- 2 itself the Department of Science and



Technology have indicated the qualifications, which a candidate should possess for appointment on various posts like Lecturer, Head of Department and Principal. If the rules provide and do envisage degree of Humanities and Science, there was no reason why BPSC should make an advertisement precluding persons with such degrees from zone of consideration.

Both the State and the BPSC were directed to file counter affidavit. The stand of the Commission is that they have gone by the request as well as recommendation made by the State Government, especially the Department of Science and Technology. The advertisement is based on the requisition forwarded by the said Department of the State of Bihar. BPSC has nothing to do with the yardstick or eligibility. They make selection on the basis of the advertisement and procedure indicated therein. However, they have gone a little ahead and indicated that there is nothing wrong with the advertisement as such which requires any interference or dilution by quashing it or asking for issuance of a fresh advertisement with modified eligibility.

The Department of Science and Technology has also filed a counter affidavit. They take a stand that though the petitioners may be teachers in Science and Humanities in Government Polytechnics but they are not teachers of Engineering branches. They are not

eligible to be appointed as Principals in these institutes and a previous adjudication made under similar circumstances has been annexed as Annexure- A to the counter affidavit.

They also take a plea that they are guided by AICTE. The advertisement is governed by the yardstick laid down by the AICTE and they have annexed Annexure- D, which is an answer to their Frequently Asked Questions available on the website of the organization to show that even AICTE in its answer “Whether Professor of Applied Sciences i.e. Science and Humanities stream are eligible for the post of Principal/ Director”, the answer given is “No”.

The object of making the advertisement is to fill up the posts with people having Technical education because of the kind of teaching which is imparted in these institutions. Merely because the petitioners are teachers in the institution, they do not become eligible to be appointed as Principals of the institution for the reason that they are generalist and not specialist.

The yardsticks and standards which an employer is looking for and the object and purpose for such appointment has to be made is to be decided by the employer. The Court has no role in fixing the eligibility and the standards including the professional qualification or experience by widening the zone of consideration merely for the asking when such advertisement has been supported

even by the State of Bihar to be correct in relation to eligibility and requirement and the kind of persons, who are required to be appointed as Principals.

In view of the above, the Court is not inclined to grant any relief to the petitioners. If they are not holders of Bachelor's or Master's degree in Engineering or Technology then they cannot be brought back into zone of consideration through issuance of mandamus.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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