

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1378 of 2014

IN

Civil Writ Jurisdiction Case No 4275 of 2011

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1. Dr. Gauri Shankar Chaudhary son of Late Tej Narayan Chaudhary, Resident of Village- Bikupatti, P.O.- Sajhuar, P.S.- Bahera, District- Darbhanga
 2. Dr. Nav Krishna Mishra, Son of Sri Mukund Mishra, Resident of Village- Kishoripur (Sajhuar), P.O.-Baigani, P.S.-Bahera, District-Darbhangha
 3. Dr. Raman Kumar Son of Sri Krishna Nand Jha, Resident of Village + P.O.- Baigani, P.S.-Bahera, District-Darbhangha
 4. Dr. Govind Nath Chaudhary Son of Late Kari Chaudhary, Resident of Village + P.O.-Sahasram, P.S.-Biraul, District-Darbhangha

.... Appellant/s

Versus

1. The Union of India through the Secretary, Department of Higher Education, (Govt. of India), New Delhi
2. The Rashtriya Sanskrit Sansthan through the Vice Chancellor, 56-57, Institutional Area, Janakpuri, New Delhi-110058
3. The Dy. Registrar (Finance), Rashtriya Sanskrit Sansthan, 56-57, Institutional Area, Janakpuri, New Delhi-110058
4. The Secretary, Department of Higher Education (Ministry of Human Resources Developmet), Govt. of India, New Delhi
5. The Under Secretary, Department of Higher Education (Ministry of Human Resources Development), Govt. of India, New Delhi
6. The Chairman, Managing Committee, Sri Ram Sunder Sanskrit Vishwa Vidya Pratisthan, Recognized as Adarsh Sanskrit Mahavidyalaya, Laxminath Nagar, Ramauli-Belon, District-Darbhangha
7. The Principal-cum-Secretary, Adarsh Sanskrit Mahavidyalaya (Sri Ram Sunder Sanskrit Vishwa Vidya Pratisthan), Laxmi Nath Nagar, Ramauli-Belon, District-Darbhangha
8. The Managing Committee, Sri Ram Sunder Sanskrit Vishwa Vidya Pratisthan Society, through its Secretary, Laxmi Nath Nagar, Ramauli-Belon, District-Datrbhangha
9. The Managing Committee of Adarsh Sanskrit Mahavidyalaya (Sri Ram Sunder Sanskrit Vishwa Vidya Pratisthan) through its Secretary, Laxmi Nath Nagar, Ramauli-Belon, District- Darbhanga

.... Respondent/s

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For the Appellant/s : M/s Girish Chandra Jha & Prasant Kumar, Advocates

For the Respondent/s : Mr Anshay Bahadur Mathur, CGC
Mr S N Pathak, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 28-08-2015

IA No 6924 of 2015 has been filed by the writ petitioners/appellants for stay of fresh advertisement issued for recruitment of Lecturers in respect of different subjects in Shri Ram Sundar Sanskrit Viswa Vidya Pratisthan, Darbhanga (For brevity, *the Pratisthan*).

2 Having heard the learned counsel for the appellant at length and the learned counsel for the respondents in this appeal, instead of dealing with the matter in a piece-meal manner, we intend to dispose of this appeal itself with consent of parties.

3 The appellants were writ petitioners. They were working after being appointed on various posts in the Pratisthan as Lecturers. Their appointments were pursuant to advertisement issued in the year 2008, in the year 2012. In 2011, an advertisement was issued for the same very post. Appellants came to this Court challenging the said advertisement on two grounds. Firstly, those posts not being available being occupied by those writ petitioners ought not and could not be advertised, there being no vacancy. They then challenged that some of those posts of Lecturers were singular



post, there could be no reservation in respect of those singular posts. The Writ Court did not accept the contention so far as the first part is concerned. It held that the writ petitioners were not holding qualifications necessary for appointment when they were so appointed. Thus, the writ petition was dismissed to that extent. On the second issue of reservation, the Writ Court set aside the advertisement to the extent it made reservations in respect of single post. The writ petitioners, being aggrieved with the first part of the judgment, have filed this appeal. During pendency of this appeal, fresh advertisement has now been issued in the month of August, 2015. By this interlocutory application mentioned above, prayer has been made to stay this advertisement. The grounds being the same that vacancy does not exist.

4 In our view, the judgment of learned Single Judge cannot be the assailed on this aspect. The writ petitioners/appellants, when they were appointed, admittedly, were not NET qualified nor did they have Ph D degree. Their very appointment letter clearly states that they are being provisionally appointed subject to completing or acquiring Ph D degree or NET qualification within two years. This is a clear cut admission of ineligibility.

5 Learned counsel then has taken us to subsequent communication to the University from the College showing that the

writ petitioners/appellants had since acquired Ph D degree, thus, it stands established that when they were originally appointed may be either in 1993, 1997 or in 2008, they did not have the eligibility for being appointed. Thus, even though they were permitted to work on that post, their appointment was not in accordance with law. They, thus, cannot be said to have acquired any right to that post. Thus, on the merits, the writ petition and the appeal have to fail.

6 However, learned counsel for the writ petitioners/appellants submits that in view of the fresh advertisement, which has been issued in the month of August 2015, they now being qualified, be permitted to apply and they should be considered for the post. He further prays that taking into account the long teaching experience, the University may consider granting them preference and weightage in the matter.

7 In our view, the prayer is not unusual. If the writ petitioners/appellants have not applied as yet, because of pendency of this appeal, we would permit them to make due applications pursuant to the aforesaid advertisement within two weeks from today. If such applications are filed, the Institution/University would duly consider the same as valid applications and at the time of considering in the process of selection, if possible and permissible, weightage for the experience may be given to them which is useful for teachers.

8 With this observation and direction, this appeal stands disposed of.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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