

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5768 of 2014

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1. Rakesh Kumar Prasad, Son of Sri Bacchu Prasad, Resident of Village and P.O. Barandi, P.S. Rahui, District- Nalanda
 2. Sushil Kumar Singh, Son of Late Sri Ramji Singh, Resident of Village- Moudihanm, P.S. Nokha, District- Rohtas
 3. Jhabbu Rai, Son of Sri Ram Suresh Rai, Resident of Village and P.O. Chandesh, P.S. Kudhani, District- Kaimur
 4. Nutan Kumari, Daughter of Sri Sheonarayan Roy, Resident of Village- Aghoria Bazar, Behind Central Bank, P.S. Kaji Mohammadpur, District- Muzaffarpur
 5. Rishikesh Roy, Son of Sri Manoranjan Prasad Yadav, Resident of Village and P.O. Adharpur, P.S. Samastipur Muffasil, District- Samastipur
 6. Bibek Kumar Jaishwal, Son of Sri Satyedeo Choudhary, Resident of Village Kumarganj, P.O. Tharbitta, P.S. Kishanpur, District- Supaul

.... Petitioner/s

Versus

1. Bihar Agricultural University, Sabour, Bhagalpur, Bihar through its Registrar
2. The Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur, Bihar
3. The Registrar, Bihar Agricultural University, Sabour, Bhagalpur, Bihar
4. The Director (Administration), Bihar Agricultural University, Sabour, Bhagalpur, Bihar
5. The Officer In charge of the Recruitment, Rajendra Agricultural University, Pusa, Samastipur, Bihar
6. The Vice Chancellor, Rajendra Agricultural University, Pusa, Samastipur, Bihar
7. The Registrar, Rajendra Agricultural University, Pusa, Samastipur, Bihar
8. The Director (Administration), Rajendra Agricultural University, Pusa, Samastipur, Bihar
9. The Director Extension Education, Rajendra Agricultural University, Pusa, Samastipur, Bihar
10. The Principal Secretary, Department of Agriculture, Government of Bihar, Patna
11. Indian Council of Agricultural Research through its Secretary, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi-1.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3191 of 2014

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Hem Chandra Choudhary, Son of Sri Kumar Chandra Choudhary, Resident of
Village - Gour Andhara, P.S. Andhara Thardhi, District Madhubani, Bihar

.... Petitioner/s

Versus

1. The Rajendra Agriculture University, Bihar, Pusa, Samastipur through Its Registrar
2. The Vice Chancellor of the Rajendra Agriculture University, Bihar, Pusa, Samastipur
3. The Registrar of the Rajendra Agriculture University, Bihar, Pusa, Samastipur
4. The Director, Administration, Rajendra Agriculture University, Bihar, Pusa, Samastipur
5. The Officer In-Charge of the Recruitment, Rajendra Agriculture University, Bihar, Pusa, Samastipur
6. The Principal Secretary, Agriculture Department, Government of Bihar, Vikash Bhawan, Patna
7. The Chancellor of the University, Raj Bhawan, Bihar, Patna
8. The Secretary, I.C.A.R., Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi-1

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 8700 of 2014

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Dr. Shagufta Perveen, D/o - Taufique Ahmad, W/o - Dr. Md. Zeyaul Hoda, R/o
Mohalla - Dumduma, P.O. - Laharia Sarai, District - Darbhanga.

.... Petitioner/s

Versus

1. Bihar Agricultural University, Sabour, Bhagalpur, Bihar through its Registrar.
2. The Vice Chancellor, Bihar Agricultural University, Sabaur, Bhagalpur, Bihar.
3. The Registrar, Bihar Agricultural University, Sabaur, Bhagalpur, Bihar.
4. The Director (Administration), Bihar Agricultural University, Sabaur, Bhagalpur, Bihar.
5. The Officer In charge of the Recruitment, Rajendra Agricultural University,

PUSA, Samastipur, Bihar.

6. The Vice Chancellor, Rajendra Agricultural University, PUSA, Samastipur, Bihar.
7. The Registrar, Rajendra Agricultural University, PUSA, Samastipur, Bihar.
8. The Director (Administration), Rajendra Agricultural University, PUSA, Samastipur, Bihar.
9. The Director Extension Education, Rajendra Agricultural University, PUSA, Samastipur, Bihar.
10. The Principal Secretary, Department of Agriculture, Govt. of Bihar, Patna.
11. The Chancellor of the University, Chancellors Secretariat, Raj Bhawan, Patna.
12. The Secretary, I.C.A.R., Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi-

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.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 23724 of 2013

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Ranjeet Pratap Pandit, S/o Sri Ram Chandra Pandit, resident of village- Pansalla,
P.S.- Chhourahi, District- Begusarai

.... Petitioner

Versus

1. Bihar Agricultural University, Sabour, Bhagalpur, through its Registrar.
2. The Vice Chancellor, Bihar Agricultural University, Saour, Bhagalpur.
3. The Registrar of the Bihar Agricultural University, Sabour, Bhagalpur.
4. The Vice Chancellor of the Rajendra Agricultural University, Bihar, PUSA, Samastipur.
5. The Registrar of the Rajendra Agricultural University, Bihar, PUSA, Samastipur
6. The Director, Administration, Bihar Agricultural University, Sabour, Bhagalpur
7. The Officer In-charge of the Recruitment, Rajendra Agricultural University, Bihar, PUSA, Samastipur
8. The Principal Secretary, Agriculture Department, Govt. of Bihar, Vikash Bhawan, Patna.
9. The Chancellor of the Universities, Governor Secretariat, Bihar, Patna.
10. The Secretary, I.C.A.R., Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi-

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.... Respondents

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Appearance :

(In CWJC No. 5768 of 2014)

(In CWJC No. 3191 of 2014)

(In CWJC No. 8700 of 2014)

(In CWJC No. 23724 of 2013)

For the Petitioners : Mr. Bindhyaachal Singh,
Mr. Mrigank Mauli,
Mr. Niranjan Kumar and
Mr. Manan Kumar Mishra, Advocates

For the I.C.A.R. : Mr. S.N. Pathak, Advocate

For the University : Mr. Dr. A.K. Upadhyay,
Mr. Chandra Mohan Prasad,
Mr. Samir Kumar Saha and
Mr. Prakash Mahto, Advocates

For the State : Mr. Ajit Kumar Jha, AC to G.P.-6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 15-01-2015

Four set of writ applications have been taken up together for consideration and adjudication because petitioners of all these writ petitions are in the same predicament. They are looking for common kind of relief from the High Court.

The petitioners, who were recruited on the basis of 2008 advertisements have all been terminated from the post of Subject Matter Specialist which became the reason for them to approach the High Court and seek not only quashing of the order of termination but also the order of show cause issued to them and ironically even some of the terms and conditions of the 2008 advertisement which formed the basis for their

recruitment in the very first place.

Since, C.W.J.C. No. 5768 of 2014, which is the case of Rakesh Kumar Prasad and Ors. Vrs. Bihar Agricultural University and Ors. is the primary writ which was taken up for arguments since pleadings have been completed in that writ application, the reference to various Annexures will be confined and would be referable to the said writ and its pleadings.

On 4th of April, 2008, in terms of Annexure-4, the Rajendra Agriculture University, Bihar invited applications for various posts. We are concerned with the post of Subject Matter Specialist (S.M.S.) to be appointed or deployed in what is known as Krishi Vigyan Kendra. Besides other eligibility the basic qualification has also been laid down in the said advertisement. The bone of contention is one of the clause, which was part and parcel of the advertisement, that candidates with Masters degree with the relevant subject from an Indian University must also be N.E.T. qualified. No doubt, the advertisement also talks about relaxation in N.E.T. qualification for a candidate having two years of teaching/research/extension education experience in University/National Institute of Repute.

Such concession or exemption has been also extended to persons with Ph.D degree.

Recruitment process was gone through. Selected candidates which included these petitioners, without N.E.T. qualification came to be appointed. The offer of appointment is



Annexure-4 series, dated 06.06.2009. Clause-16 of the said communication dated 06.06.2009 reiterates the position that candidates having Masters degree in the relevant subject and who have not qualified N.E.T. examination will have to pass the N.E.T. examination before completion of three years, failing which his/her services shall be terminated without any notice.

If this was not enough, all the selected candidates were also given a direction to execute a bond giving an undertaking with regard to the requirement of passing the N.E.T. examination within the time frame indicated in the offer letter. One such bond is Annexure-H in reply on behalf of the Agriculture University to the supplementary affidavit of the petitioners.

A reading of the bond specially, Clause-iii again reiterates the position of the obligation of the candidates to pass N.E.T. examination within three years or else they were liable to be terminated without notice.

Thereafter or what ever reasons, the University granted two years of additional time to these candidates to pass the N.E.T. examination, meaning thereby that a window of five years was opened to the selected candidates to qualify the N.E.T. and retain their job under the respondents. Since none of the petitioners before this Court passed the N.E.T. examination, they were issued show causes on 18.11.2013, some of which are Annexure-6 series and failing to provide proof of passing of

N.E.T. or satisfactory explanation for not doing so, the respondent authorities finally terminated them from service in terms of Annexure-18 series, which are dated 09.06.2014 and 10.06.2014.

As things stand, the petitioners now seek quashing of certain clause of Annexure-1 the advertisement dated 04.04.2008, the show causes contained in Annexure-6 series as well as the order of termination i.e. Annexure-18 series.

Argument has been made at the bar in support of such a prayer primarily on the ground that the University authorities had no business to lay down in the advertisement requirement of passing of N.E.T. for Subject Matter Specialist because the controlling authority, which is the Indian Council for Agriculture Research does not lay down such a qualification or eligibility for appointment or selection on such post. The minimum requirement which has been laid down by Indian Council of Agriculture Research is Post Graduate degree in the concerned subject. If the University has put extra additional minimum qualification, it violates the directive, if not the guidelines of I.C.A.R.

From the various documents which have been annexed with the writ applications to support this contention, it is urged that all these petitioners had the basic qualification, when they were selected, and that it was irrational, if not illegal on the part of the University to demand passing of N.E.T.

examination to stay on to the post they were selected.

In the alternative, it is also argued that the amended statute which the University has talked about, which according to them conferred them the power to include N.E.T. as mandatory for recruitment on the post of Subject Matter Specialist is primarily meant for Teachers and since these petitioners are not Teachers, therefore, there was no occasion or necessity for passing N.E.T. examination by them.

Counter affidavit has been filed both on behalf of Indian Council of Agriculture Research as well as the Agriculture University. Since the stand of I.C.A.R. is very limited, therefore, the same is required to be noticed at the outset. From a reading of the same, it is evident that I.C.A.R. has laid down only the minimum qualification which is required for the said post. They do not emphatically take a stand that the minimum benchmark which they have laid down cannot be altered or changed. To make these difficult for the petitioners, they do talk about certain amount of leeway which has been granted to the recruiting agencies including State Agriculture Universities. This would be evident from reading of the answers to the query which the High Court had initially put on 15.05.2014. To use the expression of I.C.A.R., they state that they have only led down a model qualification for filling up the post of S.M.S. in K.V.K. meaning Subject Matter Specialist in Krishi Vigyan Kendra across the country and is not compulsory

or mandatory.

Since the I.C.A.R. has not taken a position that the Agriculture University in question is in violation of their guidelines and the parameters laid down by way of qualification, then it necessarily means that the qualification laid down by I.C.A.R. is the minimum benchmark which is required to be met. It in no manner creates an embargo upon the Agriculture University not to raise the bar with regard to the qualification. A stand is taken by University that by raising the bar better qualified candidates can be appointed on the post, then it be so. The necessity for passing N.E.T. examination a condition laid down in the advertisement, issued by the University, cannot be said to be in violation of any statute, guidelines or requirement under any law as such.

Coming to the stand taken by the University, learned counsel representing the University submits that the writ application is required to be thrown out at the threshold for the reason that all these petitioners accepted the terms and conditions of the advertisement without any challenge at any stage. They went through the process of recruitment, they accepted the letter of appointment with the said condition that they were required to pass N.E.T. examination within three years and they further executed a bond as an undertaking that they will abide by their conditional selection and appointment subject to fulfilling the eligibility in terms of the advertisement



within a time frame. It is too late in the day for them to challenge the qualification, which the University demands after they have been terminated for failing to pass the N.E.T. examination. The arguments made at the bar on behalf of the petitioners is only to dilute the rigours of a decision, which the University was forced to take for reasons attributable to the petitioners and not to the University. The petitioners had accepted the conditional appointment with eyes wide open.

All along the petitioners were made aware and knew the position that their selection and continuance on the post was contingent and subject to passing of N.E.T. examination by them. The University was more than magnanimous in the sense that instead of initial three years they had granted two additional years to pass the examination in question. But since they failed to do so, they cannot be retained in service by quashing a clause of the advertisement and a selection made way back in the year 2009.

The University counsel further harps on the position taken by Indian Council for Agriculture research that their directive only lays down the minimum benchmark or qualification. There is no embargo on raising the benchmark.

What is urged at the bar on behalf of the petitioners that they are not Teachers or Assistant Professors in the strict sense of the term is correct. But merely because it is so it does not mean that insistence on N.E.T. is a rigorous



requirement placed by the University. The Court has gone through the kind of responsibility and the duty which is required to be performed by Subject Matter Specialist. From reading of the object and purpose for creation of the post, the responsibility or duty conferred upon them is more onerous than that of a teacher. They are an important cog in the wheel behind the object for which the post and K.V.K. has been created and established.

In the entirety, therefore, the plea of the petitioners for interfering with the conditions of advertisement at this belated stage is far fetched kind of prayer which has been made. Such a relief cannot be granted to the petitioners after they have enjoyed the privilege of selection without going through the eligibility which they were required to fulfill. They have also been given indulgence of five years. Having failed to pass in so many years they cannot be permitted to challenge a clause of advertisement issued on 4th April, 2008. Such concession will be inequitable kind of relief, which this Court cannot give or grant.

Since the reason for termination is attributable to the petitioners and they have failed to qualify the N.E.T. examination in the five years of time slot made available to them, the reason of termination cannot be said to be arbitrary or unsustainable in any manner.

Any kind of dilution of eligibility or requirement of

such selection at this belated stage in fact, would be in violation of Articles 14 and 16 of the Constitution as well. Further such dilution cannot be made from a retrospective date after the entire selection process was completed and appointment made. The petitioners are estopped from doing so.

Counsel representing the University further points out that the University has now issued notification that the minimum qualification of N.E.T. is a must for all future recruitment for such post. This only strengthens the position for not interfering with the earlier advertisement because the University has not diluted the requirement even for future recruitment. Since the rigour of passing N.E.T. has come to stay and since the petitioners have not passed the N.E.T. examination in the last five years of their continuance on the post. They cannot be given any concession now by either interfering with the advertisement or with the orders of termination.

The writ applications, therefore, are dismissed for the reasons indicated above.

(Ajay Kumar Tripathi, J)

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