

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19043 of 2015

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1. Dr. Ashutosh Kumar Bharti Son of Late Mahabir Pandit Resident of village - Rupani, P.O. Chautham, P.S. Chautham, District - Khagaria (Bihar)
 2. Dr. Abhinandan Kumar Son of Udho Prasad Yadav Resident of village + P.O. Bandehara, P.S. Parbatta, District - Khagaria (Bihar)
 3. Dr. Rakesh Kumar Natrajan Son of Kuldip Prasad Yadav Resident of village + P.O. Bandehara, P.S. Pasraha, District - Khagaria (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
2. The Secretary, Education, Bihar, Patna
3. The Chairman, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna - 800 001
4. The Joint Secretary - Cum - Examination Controller, Bihar Public Service Commission, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Ranjan Sinha
Mrs Seema Kumari
For the State : Mr. AC to SC 23
For the BPSC : Mr Sanjay Pandey

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 27-01-2016

Petitioners have been precluded from participating in the interview being conducted by Bihar Public Service Commission for the post of Assistant Professor in English. Their grievance is that they have earned exemption from passing of NET by virtue of being Ph.D. holders and the Ph.D. degree, which they have acquired, is akin to the Ph.D., which is being conferred upon the candidates post 2009 UGC Regulation. In support thereof petitioners have also brought on record a certification issued by Tilka Manjhi Bhagalpur University as to how

their Ph.D. fulfils more than six of the parameters, which was laid down for Ph.D. Regulation by the UGC in the year 2009.

It is also urged that the respondent BPSC is indulging in pick and choose and plea of discrimination has also been taken. In the rejoinder filed on behalf of the petitioners some names have also been indicated.

So far as the assertion in the rejoinder affidavit is concerned and the names indicated with roll numbers, petitioners are given freedom to keep an eye on those candidates and if any of them is actually selected and appointed, they are free to assert their position. However, the respondents have taken a rigid stand that no candidate, who does not fulfill the requirement of having a Ph.D. degree in terms of the 2009 Regulation, has been invited for such interview. However, Annexure- 3 of the petitioners themselves indicate that large number of candidates have been refused permission to participate in the interview due to the ineligibility of not- having a Ph.D. as per the 2009 Regulation or parameters.

BPSC further asserts in the counter affidavit that parameters are laid down by the State keeping in mind the guidelines issued by the UGC and BPSC has no discretion and leeway in such matter. In fact, such issue of Ph.D. holders pre-2009 Regulation has been vexing for long and the issue finally travelled to even Hon'ble

Apex Court and the Apex Court has clearly laid down in a recent decision, which is the case of P.Suseela & ors. v. University Grants Commission & ors, reported in 2015 (3) PLJR 278 (SC), in following terms :

“5. In pursuance of the said directive, the UGC promulgated the impugned Regulations of 2009, the 3rd Amendment of which provides as follows:-

“NET/SLET shall remain the minimum eligibility condition for recruitment and appointment of Lecturers in Universities/Colleges/ Institutions.

Provided, however, that candidates, who are or have been awarded Ph.D. Degree in compliance of the “University Grants Commission (minimum standards and procedure for award of Ph.D. Degree), Regulation 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET for recruitment and appointment of Assistant Professor or equivalent position in Universities/Colleges/Institutions.”

The proviso referred to a number of new conditions relating to the maximum number of Ph.D. students at any given point of time, stringent admission criteria for a Ph.D. degree, research papers being published, the Ph.D. thesis being evaluated by at least two experts, one of whom shall be an expert from outside the State etc.”

BPSC has also brought on record an earlier adjudication made by this Bench on identical issue in a batch of writ applications starting with CWJC No.13891 of 2015 and decided on 16.12.2015, a copy of which is Annexure- E.

The proposition urged and pleaded in the present writ application, in the opinion of the Court, has been fully and adequately

answered even in the said decision contained in Annexure- E to the counter affidavit of BPSC. Therefore, the rational and reasoning provided even in that decision also applies to the present set of facts.

Writ application, therefore, has no merit. The petitioners, who stand disqualified for the above reasons, cannot earn eligibility by juggling with words and submission.

Writ is dismissed.

(Ajay Kumar Tripathi, J)

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