

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4998 of 2011

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Dr.Tarun Kumar, son of Shri Ram Kumar Sharma, aged about 41 years,
resident of F-142 P.C. Colony, P.O. – Lohia Nagar, P.S. Kankarbag, District
Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna
2. The Secretary, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna
3. Tilka Manjhi Bhagalpur University, Bhagalpur through its Registrar
4. The Vice Chancellor Tilka Manjhi Bhagalpur University, Bhagalpur
5. The Pro Vice Chancellor Tilka Manjhi Bhagalpur University Bhagalpur
6. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : AC to AG

Sri Amrendra Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

10 06-04-2016 Heard Sri Arun Kumar, learned counsel for the

petitioner, learned AC to Advocate General as well as Sri

Amrendra Kumar, learned counsel, who has appeared on behalf of

the respondent /Tilka Manjhi Bhagalpur University.

The petitioner, invoking writ jurisdiction of this Court

under Article 226 of the Constitution of India, has made a prayer

for grant of following reliefs:-

*“(i)For issuance of an appropriate writ in the
nature of certiorari for quashing the order as
contained in letter no. 15/M1-226/09-559 dated
04.03.2011 issued under the signature of the
Secretary of Human Resources Development
Department, Govt. of Bihar addressed to the
Registrars of all the Universities of the State of Bihar
by which it has been communicated that the State
Govt. has decided not to appoint any teaching / non*

teaching employees in the Universities in anticipation of certain proposed amendment in the provisions of Bihar State University Act and Patna University Act and also because of the proposed constitution of a separate Commission for the aforesaid purpose and further by the aforesaid order has decided to stall the aforesaid appointment till further orders. The order dated 04.03.2011 should be quashed to the extent that the same will not be applicable for filling up the post of Principal for which Recruitment Notice has been issued by the Respondent University on 09.12.2010.

(ii) For issuance of an appropriate Writ /s , order/s, direction/s in the nature of Mandamus commanding the Respondent University to hold and conduct the Interview of the Applicants including the petitioner who have applied pursuant to the Recruitment Notice dated 09.12.2010 and complete the entire selection process of appointment on the post of Principal in accordance with the existing Rules of Recruitment and the relevant statute on the date of Advertisement.

(iii) For issuance of an appropriate Writ for a declaration and clarification that the impugned order of the State Govt. dated 04.03.2011 is at all not applicable for filling up the vacancies of the Respondent University for which the selection process has already started by issuance of advertisement by the University.

(iv) For issuance of any other relief/s for which the petitioner may be found entitled in the eye of law and in the facts and circumstances of the case.”

The petitioner has pleaded that pursuant to advertisement he applied for the post of Principal. Thereafter, interview letter was issued to the petitioner asking him to appear for interview on 8.3.2011 at 10 A.M. at the residential office of the Vice Chancellor of the Tilka Manjhi Bhagalpur University. It is case of the petitioner that while the petitioner along with other candidates reached for interview they were intimated that in view of proposed amendment regarding constitution of separate



Commission the interview was postponed. It has also been pleaded that despite lapse of several years no decision was taken for allowing the petitioner to participate in the interview. The petitioner has questioned the Annexure – ‘1’ to the writ petition i.e. a communication issued by the Secretary, Human Resources Department communicated to the Registrar of all the Universities whereby direction was issued to stop the process of selection pending decision for constitution of separate Selection Commission. Learned counsel for the petitioner has also placed reliance on a single bench judgment of this court passed in CWJC No. 8628 of 2013 passed on 9.10.2013. It has been argued by learned counsel for the petitioner that almost in similar situation in relation to Lalit Narayan Mithila University since after issuance of advertisement selection process was kept in abeyance, this Court allowed the writ petition and directed the University to proceed for selection in view of the said advertisement of the year 2010. On the aforesaid grounds a prayer has been made to direct the respondent/ Tilka Manjhi Bhagalpur University to proceed with the said advertisement.

In this case counter affidavits and supplementary counter affidavit have been filed. Learned State counsel by way of referring to Annexure – ‘C’ to the supplementary counter



affidavit submits that in view of enactment, all such appointments are required to be done by the newly constituted Selection Commission and only after the recommendation of the Selection Commission appointment can be made by the University. He submits that in view of the enactment automatically the life of the advertisement which was issued in the year 2010 has come to an end and as such, it would not be appropriate to direct to proceed with the advertisement for selection which has already been substituted by a specific enactment. He further submits that so far as the single bench judgment is concerned, while the said writ petition was decided the enactment had not come into play and as such, the petitioner may not get benefit from the said order.

Besides hearing learned counsel for the parties I have also perused the materials available on record. Fact remains that merely on the ground that a candidate has got an interview letter no indefeasible right is created in such person for being selected. On the contrary it is settled that even an empanelled person has got no indefeasible right. In the present case though after the advertisement, petitioner was issued interview letter but he did not participate in the interview due to the reason that in the meanwhile as per direction of the State Government the selection

process was kept in abeyance. It is not also in dispute that the State Government was directed by this court in writ petition for rationalization of the selection process and in compliance with the direction of this Court steps were being taken by the State Government. Moreover, till date, pursuant to advertisement no further step has been taken save and except issuance of interview letter, but in the meanwhile, the Act has already come into play which prescribes for procedure for selection. In view of the enactment i.e. Bihar State University (Amendment) Act, 2013 no relief can be granted to the petitioner. Accordingly, the writ petition stands dismissed.

(Rakesh Kumar, J)

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