IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18222 of 2015

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Dr. Vimlesh Vivuti Ranjan, Son of Late Jagdish Narayan Sinha, Resident of Village/Mohalla - Sikandarpur Kundal, P.S. - Town Muzaffarpur, District - Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Bihar Public Service Commission through its Secretary, Bailey Road, Patna.
3. Chairman, Bihar Public Service Commission, Bailey Road, Patna.
4. Secretary, Bihar Public Service Commission, Bailey Road, Patna.
5. Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna.
6. Director, Science and Technology Department, Govt. of Bihar, Patna.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 18265 of 2015

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1. Jyant Ajat Shatru Son of late Ajat Shatru Resident of G/2, P.c Colony , P.s Kankarbagh , Patna-20
2. Rupam Daughter of R.P. Singh Resident of Village-Chaturchak, Ps Sultanganj, District Bhagalpur.
3. Arvind kumar son of Shyam kumar Jha Resident of Q.No. A/10, M.I.T, P.s Brahampur,District Muzaffarpur.
4. Abhishek Kumar Son of Arjun Prasad Yadav Resident of Panchsil Nagar , P.s Pandra, District Ranchi, Jharkhand.
5. Deo Kumar Mahesh son of Devendra Prasad Mishra Resident of Bijubigha Meskabour , P.s Narhat, District Nawada.
6. Ravindra Prakash Kiran son of late L.B. Rajak resident of Mohalla-Dhirachak, P.s Gardanibagh, District Patna.
7. Shashwat son of Kamal KumarMukherjee Resident of Gurunanakpura, Ps. Industrial Area, district Bhagalpur.
8. Alok kumar son of Ashok kumar Sharma Resident of Bishwashpur, P.s Amarpur, District Banka.
9. Vivek kumar Son of Rabindra kumar shukla Resident of Q. No. C/9, M.I.T, Compus , P.s Brahmpura, District Muzaffarpur.
10. Amit Bhushan Srivastava Son of Krishna Bhushan Srivastava Resident of Juran Chapra, road No. 2, P.s Brahampura, District Muzaffarpur.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, Bailey Raod, Patna
3. The Secretary, Bihar Public Service Commission, Bailey Raod, Patna
4. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bailey Raod, Patna
5. The Vice Chancellor,Babasaheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
6. The Registrar,Babasaheb Bhimrao Ambedkar Bihar University, Muzaffarpur.

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.... Respondents

with

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Civil Writ Jurisdiction Case No. 18224 of 2015

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Reshu Rani Daughter of Sri Nagendra Kumar Resident of Tower Chowk, Lakhisarai, Darbhanga.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
3. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
4. The Administrative Officer, Direct Recruitment Branch, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
5. The Vice Chancellor, Baba Saheb Bhimrao Ambedkar, Bihar University, Muzaffarpur.
6. The Chairman, University Grant Commission, Bahadur Shah Zafar Marg, New Delhi, Pin 110002.
7. The Chairman, All India Council Technical Education, New Delhi, Chairman Secretariat, 7th Floor, Chanderlok Building, Janpath, New Delhi 110001.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 18225 of 2015

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Kumar Rajan Parmar Son of Dr. Lal Babu Singh Resident of Akharaghat Road, At - P.O. - Sakhpur, Muzaffarpur.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Science and Technology Department, Government of Bihar, Patna. null null
2. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
3. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
4. The Administrative Officer, Direct Recruitment Branch, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
5. The Vice Chancellor, Baba Saheb Bhimrao Ambedkar, Bihar University, Muzaffarpur.
6. The Chairman, University Grant Commission, Bahadur Shah Zafar Marg, New Delhi, Pin 110002.
7. The Chairman, All India Council Technical Education, New Delhi, Chairman Secretariat, 7th Floor, Chanderlok Building, Janpath, New Delhi 110001.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 18226 of 2015

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Rajiv Ranjan Son of Sri M.P. Srivastava, Resident of Mishra Tola, Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
3. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
4. The Administrative Officer, Direct Recruitment Branch, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
5. The Vice Chancellor, Baba Saheb Bhimrao Ambedkar, Bihar University, Muzaffarpur.
6. The Chairman, University Grant Commission, Bahadur Shah Zafar Marg, New Delhi, Pin 110002.
7. The Chairman, All India Council Technical Education, New Delhi, Chairman Secretariat, 7th Floor, Chanderlok Building, Janpath, New Delhi 110001.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 18227 of 2015

==========

Abhishek Kumar Son of Sri Arjun Prasad Yadav Resident of Panchsheel Nagar, Pandara, Ranchi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
2. The Chairman, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
3. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
4. The Administrative Officer, Direct Recruitment Branch, Bihar Public Service Commission, 15, Jawaharlal Nehru Marg (Bailey Road), Patna - 800001.
5. The Vice Chancellor, Baba Saheb Bhimrao Ambedkar, Bihar University, Muzaffarpur.
6. The Chairman, University Grant Commission, Bahadur Shah Zafar Marg, New Delhi, Pin 110002.
7. The Chairman, All India Council Technical Education, New Delhi, Chairman Secretariat, 7th Floor, Chanderlok Building, Janpath, New Delhi 110001.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 6156 of 2014

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1. Abhishek Kumar Son of Sri Arjun Prasad Yadav Resident of Panchsheel Nagar, Pandara, Ranchi
2. Kumar Rajan Parmar Son of Dr. Lal Babu Singh Resident of Aakharaghat

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Road, At And P.O. Shakhpur, Muzaffarpur

.... Petitioners

Versus

1. The State Of Bihar, Through The Principal Secretary, Science And Technology Department, Government Of Bihar, Patna
2. The Nodal Officer, Science And Technology Department, Government Of Bihar, Patna
3. The Vice Chancellor, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur
4. The Registrar, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur
5. The Dean, Engineering Faculty, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur
6. The Principal, M.I.T., Muzaffarpur
7. The Chairman, All India Council Technical Education, New Delhi

.... Respondents

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Appearance :

(In CWJC No.18222 of 2015)

For the Petitioner	:	Mr. Rajendra Prasad, Sr. Advocate
		Mr. Ritesh Kumar, Advocate
		Mr. Pramod Kumar, Advocate
For the State	:	Mr. Ritesh Kumar, S.C.33
For B.P.S.C.	:	Mr. P.N. Sahi, Sr. Advocate
		Mr. Sanjay Pandey, Advocate

(In CWJC No.18265 of 2015)

For the Petitioners	:	Mr. Rama Kant Sharma, Sr. Advocate
		Mr. Rajesh Kumar, Advocate
		Mr. Ranjeet Kumar, Advocate
		Mr. Kundan Kumar, Advocate
		Mr. Ranjeeta Singh, Advocate
		Mr. Akash Keshav, Advocate
		Mr. Yogesh Kumar, Advocate
For the State	:	Mr. Vinay Kirti Singh, G.A.3
For B.P.S.C.	:	Mr. P.N. Sahi, Sr. Advocate
		Mr. Sanjay Pandey, Advocate
For University	:	Mr. Mrigank Mauli, Advocate
		Mr. Samir Kumar, Advocate
		Mr. Vibhas Ratan Bharti, Advocate

(In CWJC No.18224 of 2015)

For the Petitioner	:	Mr. Ranjeet Kumar, Advocate
		Mr. Kundan Kumar, Advocate
		Mr. Ranjeeta Singh, Advocate
		Mr. Akash Keshav, Advocate
		Mr. Yogesh Kumar, Advocate
For the State	:	Mr. Vinay Kirti Singh, G.A.3
For B.P.S.C.	:	Mr. P.N. Sahi, Sr. Advocate
		Mr. Sanjay Pandey, Advocate
For University	:	Mr. Mrigank Mauli, Advocate
		Mr. Samir Kumar, Advocate
		Mr. Vibhas Ratan Bharti, Advocate
For A.I.C.T.E.	:	Mr. S.N. Pathak, Advocate

(In CWJC No.18225 of 2015)

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For the Petitioner	:	Mr. Ranjeet Kumar, Advocate Mr. Kundan Kumar, Advocate Mr. Ranjeeta Singh, Advocate Mr. Akash Keshav, Advocate Mr. Yogesh Kumar, Advocate
For the State	:	Mr. Ravindra Nath Dubey, A.A.G.12
For B.P.S.C.	:	Mr. P.N. Sahi, Sr. Advocate Mr. Sanjay Pandey, Advocate
For University	:	Mr. Mrigank Mauli, Advocate Mr. Samir Kumar, Advocate Mr. Vibhas Ratan Bharti, Advocate
For A.I.C.T.E.	:	Mr. S.N. Pathak, Advocate
(In CWJC No.18226 of 2015)		
For the Petitioner	:	Mr. Ranjeet Kumar, Advocate Mr. Kundan Kumar, Advocate Mr. Ranjeeta Singh, Advocate Mr. Akash Keshav, Advocate Mr. Yogesh Kumar, Advocate
For the State	:	Mr. Ashok Kumar Keshri, A.A.G.11
For B.P.S.C.	:	Mr. P.N. Sahi, Sr. Advocate Mr. Sanjay Pandey, Advocate
For University	:	Mr. Mrigank Mauli, Advocate Mr. Samir Kumar, Advocate Mr. Vibhas Ratan Bharti, Advocate
For A.I.C.T.E.	:	Mr. S.N. Pathak, Advocate
(In CWJC No.18227 of 2015)		
For the Petitioner	:	Mr. Ranjeet Kumar, Advocate
For the State	:	Mr. Kaushal Kumar Jha, A.A.G.14
For B.P.S.C.	:	Mr. P.N. Sahi, Sr. Advocate Mr. Sanjay Pandey, Advocate
For University	:	Mr. Mrigank Mauli, Advocate Mr. Samir Kumar, Advocate Mr. Vibhas Ratan Bharti, Advocate
For A.I.C.T.E.	:	Mr. S.N. Pathak, Advocate
(In CWJC No.6156 of 2014)		
For the Petitioners	:	Mr. Ranjeet Kumar, Advocate Mr. Dilip Kumar, Advocate
For the State	:	Mr. Naseem Yahya, G.P.13
For University	:	Mr. Dhruba Mukherjee, Sr. Advocate Mr. Ganesh Singh, Advocate
For A.I.C.T.E.	:	Mr. S.N. Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 12-05-2016

A batch of writ applications have been filed by the petitioners when the Bihar Public Service Commission by virtue of

a notification contained in (Annexure-10) in CWJC No.18222 of 2015 declared the petitioners ineligible on the ground that the degree which is M.Sc. (Engineering), issued by B.R.A. Bihar University, Muzaffarpur is not a recognized degree from All India Council of Technical Education (AICTE). The petitioners were applicants on the post of Assistant Professor under different streams for which advertisement dated 22.08.2014 contained in Annexure-6 was issued.

2. The main refrain in all the writ applications is that after accepting the application of the petitioners and processing it, they are even issued roll numbers. Some of these petitioners' names also figured in the list of eligible candidates for participation in the written examination but after sometime yet another list was published on the website of the Bihar Public Service Commission and they have been shown to be ineligible. That is the reason for them to approach the High Court. They not only seek a declaration that the degree of M.Sc. in Engineering issued by B.R.A. Bihar University is a valid degree and equivalent to M.E. or M.Tech but also want quashing of the list showing these petitioners to be ineligible, as also a direction for permitting them to sit in the examination.

3. Counter affidavit both on behalf of Bihar Public

Service Commission as well as the Department of Science and Technology has been filed. The stand of the Bihar Public Service Commission is that the qualification indicated in the advertisement is based on the requisition sent by the Department of Science and Technology. The eligibility and requirements are inconformity with the statutory Rule which was notified by the State of Bihar. The Rule is known as Bihar Engineering Education Service Rules, 2014. The decision to declare candidates who are holder of degree, like, M.Sc. Engineering from B.R.A. University to be ineligible has been done after a detailed deliberation and consultation done with the State Government specially the Department of Science and Technology.

4. Bihar Public Service Commission has also annexed Annexure-H, which is an extract from the Bihar Universities Calendar and Regulations to show and demonstrate that the award of degree of M.Sc. in Engineering is based on some kind of a research work. There is no set syllabus. No classes or teaching. After completion it is not a degree but a diploma is awarded. Not only this, looking at the nature of the course of studies, no mark-sheet is also issued by the University which will have its own complication since weightage is also required to be given on the basis of academic performance as per the advertisement.

5. The counsel representing the Bihar Public Service Commission insists that the decision to make holders of such degree ineligible was not a flash in the pan kind of decision. It was taken after many rounds of discussion and exchange of correspondences and clarification between the Commission and the nodal department, i.e., Science and Technology, Government of Bihar. Some of the communications are contained in Annexure-J and K to the counter affidavit of the Bihar Public Service Commission.

6. The counsel representing the State supports the stand of the Bihar Public Service Commission. It is their stand that the so called degree of M.Sc. Engineering is not a valid and recognized degree. It is not approved or recognized degree by AICTE. There cannot be any equivalence between the qualification so demanded in the advertisement. The equivalence which is being pleaded and urged at the bar cannot be decided by a Court of Law. Such equivalence also cannot be declared by a Court. Such principle has been laid down by even the Apex Court as early as in the case of *Mohd. Shujat Ali v. Union of India*, reported in *(1975) 3 SCC 76*.

7. The State counsel further takes a stand that when an employer issues an advertisement for recruitment, and lays down the conditions and eligibility which also includes the

qualifications which they are looking for, then it is the employer who knows best and nobody can make a grievance or ask a Court to declare that the qualification which a litigant possesses should fit the bill and the requirement of the advertisement. Attention of the Court has been drawn to the case of *State of Rajasthan v. Lata Arun*, reported in *(2002) 6 SCC 252*. The ratio of the said decision with regard to the proposition, as above, has been laid down in paragraph-13 of the said decision which reads as under:

> *"13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."* (emphasis mine)

8. The Court is not impressed by the submission of the counsels on behalf of the petitioners that since these petitioners have been working as teachers in MIT, Muzaffarpur on contract basis for a while, therefore, they fulfill all the requirements even in matters of permanent appointment on the post of an Assistant Professor. The appointment or engagement of these petitioners in whatever institution they are, is a kind of a working arrangement and all these engagements have been done much prior to the 2014 Rule having been brought into place by the State. Now that the

Rule codifies the requirement with regard to eligibility, qualification and experience for different subjects, which I am informed is in consonance with the requirements laid down by AICTE. The same is not required to be tinkered or interpreted by a Court of Law. Both the Rule and the advertisement are unambiguous as to what should be the qualification, the experience etc. in the various subjects for which the advertisement has been issued. The effort on the part of these petitioners to obtain a declaration from the Court by way of a finding as an equivalence, is a desperate effort to get a foothold without there being the eligibility and the qualification in terms of the requirements of the advertisement.

9. Annexure-H annexed with the counter affidavit of the Bihar Public Service Commission also throws adequate light in the manner in which the so called course of studies and award of degree/diploma is being done by the B.R.A. Bihar University in M.Sc. Engineering. It is a unique kind of education which is imparted in engineering. May be it has an object of facilitating some research work in the area but that by itself may not be adequate for this Court to declare award of the said diploma or degree to be equivalent to Master of Engineering (M.E.) or Master of Technology (M.Tech.).

10. The Court, therefore, is not impressed by the arguments and submissions of the counsels for the petitioners that the decision of the Bihar Public Service Commission to show them to be ineligible for consideration for appointment as Assistant Professors in the engineering colleges being run by the State of Bihar suffers from any infirmity or vice of irrationality or arbitrariness. The decision so taken and notified has been done after much deliberation and application of mind keeping various factors and parameters and on due consultation with the State of Bihar specially the Department of Science and Technology.

11. The writ applications, therefore, have no merit and are dismissed since so called M.Sc. (Engineering) is not equivalent to M.E. or M.Tech.

(Ajay Kumar Tripathi, J.)

SanjayKumar/-

AFR/NAFR	NAFR
CAV DATE	07.04.2016
Uploading Date	12.05.2016
Transmission Date	