

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.479 of 2017

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1. Shailendra Kumar, Son of Late Ram Naresh Prasad, Resident of Village + P.O.- Kishanpur, P.S.-Barbiga, District-Sheikhpura.
 2. Priyadarshini Sinha, Wife of Rajiv Ranjan Sinha, Resident of Mohalla- Gol Bagicha, Harihar Bhawan, P.O.-R.S. Gaya, P.S.-Kotwali, District-Gaya.
 3. Roy Soumitra Mani Bhushan, Son of Sri Gaya Prasad Rai, Resident of Khabara Road, Muzaffarpur.
 4. Sweeti Kumari, Wife of Shayam Kumar Choudhary, daughter of Late Sari Nath Choudhary, At Laddu Akhara, Naya Gaon, P.O.-Gulzarbagh, Patna-7.
 5. Subhash Pandey, Son of Kanahiya Pandey, Resident of Village- Jogeya, P.O.-Kajhain, P.S.-Bikramganj, District-Rohtas.
 6. Durgesh Nandani, Wife of Sri Pankaj Kumar, D/O Nand Kishore Choudhary, Resident of Village- Dhewahan, P.O. + P.S.-Kanti, District-Muzaffarpur.
 7. Manish Kumari, Wife of Sri Anil Kumar Bharti, resident of C/o Sri Bilat Mahto, Mohalla- Ajam Nagar, P.O.+ P.S.- Lalit Narayan Mithila University, Lal Bagh, District- Darbhanga.
 8. Ajit Kumar, Son of Vimal Kumar Jha Ashok, Resident of Village- Naya Gaon, P.O.- Basodeopur, P.S.- Kotwali, District-Munger.
 9. Gopal Mandal, Son of Late Newa Lal Mandal, resident of Mahesha Chanda, P.O.-Lashkari, P.S.-Rajaoun, District-Banka.
 10. Kumari Prasima Yadvendu, Wife of Manoj Kumar, Resident of Mohalla- Rampur, Near Gaya College More, Dobhi Sherghati Road, P.O. + P.S.-Rampur, District-Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. The Chief Secretary, Government of Bihar, Patna.
 3. The Director-in-Chief, Health Services, Government of Bihar, Patna.
 4. The Director, Medical Education, Government of Bihar, Patna,
- **Respondent 1st Set.**
5. The Principal, Patna Medical College & Hospital, (PMCH), Patna.
 6. The Principal, Darbhanga Medical College & Hospital, (DMCH), Darbhanga,
 7. The Principal & Superintendent, Nalanda Medical College & Hospital (NMCH), Patna.
 8. The Principal, Sri Krishna Memorial Medical College & Hospital (SKMNCH), Muzaffarpur.
 9. The Principal, Jawaharlal Nehru Medical College & Hospital, Bhagalpur.
- **Respondent 2nd Set.**
10. The Medical Council of India, New Delhi.
 11. The Principal Secretary (Health), Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Narayan Singh, Advocate Mr. Kanhaiya Pandey, Adv.
For the Respondent-State	:	Mr. Shailendra Kumar, AC to PAAG-2
For the Respondent-MCI	:	Mr. Kumar Brijnandan, Adv. Mr. Tarees Hameed, Adv.
For the Respondent-SKMCH:	:	Mr. Shishir Kumar, Adv.



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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 17-04-2017

Heard learned counsel for the parties.

The petitioners herein were engaged against the post of Librarian, Assistant Librarian and Speech Therapists cum Audiologist in different Medical Colleges and Hospitals in the State on contract basis. Since the contract of these petitioners was not being extended nor even regular appointment process was being initiated and even though there was an advisory of the Principal Secretary, Health Department, Bihar, Patna dated 28.12.2015 present at Annexure-33, to allow the Librarian, Assistant Librarian and other technical staff employed on contract basis to continue, by extending their contracts, yet the contract of the petitioners was not renewed rather in view of a direction issued on 28.2.2017 by the Principal Secretary, Health Department, Bihar, Patna present at Annexure 'C' to the counter affidavit, whereby the Principal of the Medical Colleges were directed to advertise the post for fresh appointment on contract basis that these petitioners approached this Court.

This matter was heard on 24.3.2017 when this Court directed the Principal Secretary, Health Department to consider the matter in the background of the decision taken by him in the



meeting held on 28.12.2015 (Annexure-33) and the Division Bench Judgment of this Court reported in **2015(2) PLJR 435 (State of Bihar & Ors. Vs. Vimal Prakash & Ors)** whereby the Division Bench has held that one contractual appointment cannot be replaced by another contractual appointment and whether in the circumstances discussed and until such time that the department proceeds for regular appointment there was any occasion for the department to direct for fresh advertisement for contract appointments vide letter dated 28.2.2017 of the Principal Secretary (Annexure-C).

A supplementary counter affidavit has since been filed by the Principal Secretary, Health Department and enclosing an advisory issued on 12.4.2017 present at Annexure 'A' thereof that it is submitted by Mr. Shailendra Kumar, learned Assisting Counsel to Principal Additional Advocate General No.2 that the Principal of all the Medical Colleges and Hospitals have been directed to extend the services of the contract employees until regular appointments are made on the respective post so that the work of the hospital does not get impeded.

Mr. Rakesh Narayan Singh, learned counsel appearing for the petitioners does admit that following the advisory issued by the Principal Secretary, Health Department that the petitioners have



been reinstated on their post.

In view of the stand taken by the Principal Secretary, Health Department in the supplementary counter affidavit filed today more particularly the advisory dated 12.4.2017 and in view of the admission made by Mr. Rakesh Narayan Singh, learned counsel for the petitioners the writ petition is disposed of with an advice to the Principal of the Medical Colleges in question to abide by the stipulations present therein including the direction relating to payment of salary.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-05-2017
Transmission Date	NA

