

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.493 of 2016
Arising out of
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.O. - Pasaraha, District - Khagaria.

.... Appellant/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 - 800001
4. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Patna.

.... Respondent/s

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Appearance :

For the Appellants	:	Mr. Dhruv Mukherjee, Sr. Advocate Mr. Satya Ranjan Sinha, Advocate
For the State	:	Mr. Anirban Kundra, S.C. 24
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 16-01-2017

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 27th of January, 2016 in C.W.J.C. No. 19043 of 2015 whereby, the writ application filed by the appellants was dismissed.

3. The appellants seek appointment to the post of



Assistant Professor in the subject of English in a Constituent College. The appellants are holder of Ph.D. degree prior to the notification of University Grants Commission (Minimum Standard and Procedure for Award of Ph.D. Degree) Regulations, 2009 published on 11th of July, 2009. The appellants obtained Ph.D. degree on or before 10th of July, 2009.

4. The question as to whether such candidates are eligible for appointment against the post of Assistant Professor has been examined by a Division Bench of this Court in a case reported as Dr. Rakesh Kumar Singh & Ors. Vs. The Union of India & Others, 2015 (4) PLJR 477. In view of the said decision pertaining to the Statute in question, we do not find any merit in the present appeal.

5. Learned counsel for the appellants refers to supplementary affidavit dated 13th of January, 2017 to contend that six candidates have been appointed who are not holders of Ph.D. degree in terms of 2009 Regulations. Therefore, in terms of the judgment of the learned Single Bench, the appellants are entitled for the same treatment as given to those six candidates.

6. We find that the appellants cannot claim parity in the illegality. Reference may be made to the case reported as Chandigarh Administration Vs. Jagjit Singh (1995) 1 SCC 745 and Kulwinder Pal Singh and another Vs. State of Punjab and others, AIR



2016 Supreme Court 2281. But we direct the Commission to consider the candidature of the candidates mentioned by the appellants in paragraph 2 of the supplementary affidavit dated 13th of January, 2017 and if such candidates are not holding Ph.D. degree in terms of 2009 Regulations, to take appropriate steps in accordance with law.

7. The present Letters Patent Appeal is disposed of in the same terms as Dr. Rakesh Kumar Singh's case (supra).

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	

