

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5170 of 2017

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Birendra Kumar, Son of Sri Dhaneshwar Paswan, resident of
Village- Sobh, P.O.- Bhadeya, P.S.- Barachatti, Dist.- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar, Patna.
2. The Chairman, Bihar Public Service Commission (hereinafter referred as BPSC), 15, J.L.N. Marg (Bailey Road), Patna.
3. The Joint Secretary-cum-Examination Controller, BPSC, JLN Marg (Bailey Road, Patna).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anshu Dhar Sharma, Adv.
For the State : Mr. Vinay Kr. Mishra, AC to AAG-15
For the BPSC : Mr. Sanjay Pandey, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 10-04-2017

The petitioner has been held to be ineligible from appearing for interview, for selection to the post of Assistant Professor, on the ground that he does not hold either Ph.D. degree, under Minimum Standard and Procedure Regulations, 2009 (*hereinafter referred to as the "2009 Regulations"*), under University Grants Commission (*hereinafter referred to*



as the "**UGC**"), nor has he cleared the National Eligibility Test (*hereinafter referred to as the "**NET**"*), for appointment to the post of Assistant Professor.

2. This application, under Article 226 of the Constitution of India, has been filed questioning the decision of Bihar Public Service Commission, whereby, the petitioner has been held to be ineligible for selection to the post of Assistant Professor under various Universities of the State of Bihar. It is the case of the petitioner that he possessed Ph.D. degree, under 2009 Regulations, and on the ground of lack of qualification, he ought not to have been declared ineligible.

3. Heard learned counsel appearing on behalf of the petitioner, learned Additional Public Prosecutor appearing on behalf of the State of Bihar and learned counsel representing the Bihar Public Service Commission (*hereinafter referred to as the "**BPSC**"*).

4. Learned counsel, appearing on behalf of the petitioner, has drawn my attention to Annexure-1 of the writ application, which is a certificate issued by the Registrar of Ch. Charan Singh University, Meerut, to submit that the Ph.D. degree awarded by the said University in favour of the petitioner is in accordance with 2009 Regulations of UGC. He submits that in order to be eligible, one of the eligibility conditions for appointment to the post of Assistant Professor



is that a candidate must have either obtained Ph.D. degree, under 2009 Regulations, or he has NET qualification, issued by the UGC.

5. I have perused Annexure-1 to this writ application from which it appears that the said certificate has been issued on the ground that the petitioner fulfills 6 conditions out of 11, as laid down by the UGC. Relevant portion of the said certificate is being extracted hereinbelow:-

"x x x x x x x. The Ph.D. degree on the above-mentioned topic awarded by this University is in accordance with (UGC minimum standards and procedure for the award of Ph.D. degree) Regulation-2009 as he fulfills 6 conditions out of 11 as laid down by the UGC."

6. Learned counsel, appearing on behalf of the BPSC, has, in reply to submission made on behalf of the petitioner, relied on Supreme Court decision in case of **P. Suseela & Ors. Vs. University Grants Commission & Ors.**, reported in **(2015) 8 SCC 129**, with reference to paragraph 24 thereof. He has submitted that the view taken by the Allahabad High Court, in case of **Ramesh Kumar Yadav Vs. University of Allahabad [2012 SCC OnLine All 667 : (2013) 4 All LJ 635]** that such candidates, who fulfill



6 conditions out of 11, as laid down by the UGC, in view of the report of an Expert Committee, headed by S.P. Thyagarajan Committee, has not been approved, rather turned down by the Supreme Court in case of **P. Suseela** (supra). The Supreme Court has clearly held in case of **P. Suseela** (supra), that since the UGC itself had not given effect to the recommendation of the Thyagarajan Committee, the High Court could not have done so. Paragraph 24 of the decision, in case of **P. Suseela** (supra), reads thus, which is extracted hereinbelow:-

"24. x x x x x x x UGC itself does not appear to have given effect to this recommendation of the Thyagarajan Committee. However, the High Court thought it fit to give effect to this Committee's recommendation in the final directions issued by it. When UGC itself has not accepted the recommendations of the said Committee, we do not understand how the High Court sought to give effect to such recommendations. We, therefore, set aside the Allahabad High Court judgment dated 6-4-2012 in its entirety."

7. In view of the decision of Supreme Court in case



of **P. Suseela** (supra), I do not find any merit in this application. This application is, accordingly, dismissed.

8. Learned counsel, appearing on behalf of the petitioner, has also submitted that some persons, who do not fulfill the minimum eligibility criteria of having Ph.D. degree, under 2009 Regulations, have been allowed by the BPSC to appear for the interview.

9. The Court does not wish to make any comment on such submission for the present in the present proceeding. The Court expects that the BPSC shall act in accordance with the advertisement, which is the basis for holding selection, and the Supreme Court decision in case of **P. Suseela** (supra).

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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