

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6059 of 2016

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1. Kulwant Kumar Yadav, S/o Late Sheo Naresh Singh Yadav, Resident of Village + P.O.- Hichhan Bigha, P.S.- Daudnagar, District- Aurangabad, Bihar.
 2. Kamdeo Yadav, S/o Babu Lal Yadav, R/o Mahkar, P.O.- Amarut, P.S.- Dobhi, District- Gaya, Bihar.
 3. Pinki Kumari, D/o Shyam Sundhar Sah, R/o Village at + P.O.- Pakarail via Mahesh Kunth, District- Khagaria, Bihar.
 4. Tapsi Kumar, S/o Sri Saligram Yadav, R/o Village- Pakri, P.O.- Ker, P.S.- Konch, District- Gaya, Bihar.
 5. Gajendra Kant Sharma, S/o Late Chandra Bhusan Sharma, R/o Village + P.O.- Kamta, P.S.- Parasi, District- Arwal.
 6. Dharmendra Nath Chaubey, S/o Bimlendu Nath Chaubey, R/o Chandan Motor, Main Road, Mairwa, P.O.- Langarpura, P.S.- Mairwa, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
2. The Secretary, Education Department, Govt. of Bihar, Patna.
3. The Chairman, Bihar Public Service Commission, Jawaharlal Nehru Marg (Bailey Road), Patna.
4. The Secretary, Bihar Public Service Commission, Jawaharlal Nehru Marg (Bailey Road), Patna.
5. The Joint Secretary cum Examination Controller, Bihar Public Service Commission, Jawaharlal Nehru Marg (Bailey Road), Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siya Ram Sahi and
Mr. Purushotam Sharma, Advocates
For the State : Mr. Narendra Kumar, A.C. to G.P. 20
For the BPSC : Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 25-04-2017

Heard learned counsel for the petitioners, State and the
Bihar Public Service Commission (hereinafter after referred to as the
'BPSC').

2. The petitioners have moved the Court for a direction
to allow them to participate in the ongoing recruitment process for



the post of Assistant Professors being conducted by the BPSC.

3. The admitted position is that in terms of the Advertisement issued on 14.09.2014, the last date of submission of form was initially 20.11.2014, which was extended to 05.01.2015. The eligibility conditions stipulated that persons either should have qualified in the National Eligibility Test (NET) or had Ph.D. degree under the 2009 Regulations. The petitioners having qualified the NET examination on 15.06.2015, have moved the Court for a direction that their candidature be also considered.

4. Learned counsel for the petitioners submitted that as per the requirement of the Government policy under which such recruitments are made, exams are to be conducted every year but unfortunately, after a gap of almost 20 years, the present examination/selection process is being conducted and, thus, even if the petitioners have acquired the qualification prescribed after a few months, they should be allowed to participate in the selection process as otherwise they may not get any further opportunity on account of the selection process not being initiated for years together due to which they may not remain eligible on account of age. Learned counsel further submitted that the respondents could very well issue a corrigendum to include all such persons, who had acquired NET qualification on 15.06.2015.



5. Learned counsel for the State submitted that as per the settled law, the recruitment process once having been initiated, there cannot be any changes and the process has to be completed strictly as per the terms mentioned in the Advertisement.

6. Learned counsel for the BPSC took a similar stand and further submitted that as per the terms of the Advertisement, a person on the day of making an application had to be either NET qualified or having Ph.D. degree under the 2009 Regulations and such qualification acquired later on would not make him eligible for consideration in the present selection process.

7. Having considered the rival contentions, the Court does not find any ground to interfere in the matter. It is no more a grey area with regard to the cut-off date relating to qualification possessed by any prospective candidate applying for any post. The first and foremost requirement is that whatever is mentioned in the Advertisement, has to be strictly followed and further, on the cut-off date as may be specified in the Advertisement or the last date for filing such application, a candidate must possess the requisite qualification. If in clear terms, the Advertisement stipulated that a person, who has already qualified NET or possessed Ph.D. degree under the 2009 Regulations, till the last date of filing application, was eligible to apply, in the present situation, the petitioners



admittedly did not possess the eligibility, as the last date for submission of form was lastly extended to 05.01.2015 whereas the petitioners qualified the NET examination much later on 15.06.2015. Such stipulation, having been clearly reflected in the Advertisement itself, there is no scope for showing any indulgence to the petitioners for the same would be misplaced sympathy and would cause prejudice to the rights of persons, who, though being similarly situated, may not have applied under *bona fide* and correct impression that they do not possess such qualification by the cut-off date for making such application.

7. Thus, considering the issue in totality, the Court is not inclined to interfere in the matter and accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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