

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.127 of 2017

Arising out of

LPA No. 1206 of 2016

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The State of Bihar through the Principal Secretary, Science & Technology
Department, Govt. of Bihar, Patna

.... Petitioner/s

Versus

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 - Chatuchak, P.S. Sultanganj, District - Bhagalpur
3. Arvind Kumar, Son of Shyam Kumar Jha, Resident of Quarter No. A/10, M.I.T., P.S. Brahmapura, District - Muzaffarpur
4. Abhishek Kumar, Son of Arjun Prasad Yadav, Resident of Panch Sheel Nagar, P.S. Padra, District - Ranchi (Jharkhand)
5. Dev Kumar Mahesh, Son Devendra Prasad Mishra, Resident of Biju Bigha, Meskabour, P.S. Narhat, District - Nawada
6. Ravindra Prakash Kiran, Son of Late L.B. Rajak, Resident of Mohalla - Dhira Chak, P.S. Gardanibagh, District - Patna
7. Saswat, Son of Kamal Kumar Mukherjee, Resident of Gurunanak Pura, P.S. Industrial Area, District - Bhagalpur
8. Alok Kumar, Son of Ashok Kumar Sharma, Resident of Bighwaspur, P.S. Amarpur, District - Banka
9. Vivek Kumar, Son of Ravindra Kumar Shukla, Resident of Quarter No. C/9 MIT Campus, P.S. Brahmapura, District - Muzaffarpur
10. Amit Bhushan Srivastava, Son of Krishna Bhushan Srivastava, Resident of Juran Chapra Road No. 2, P.S. Brahmapur, District - Muzaffarpur
11. The Chairman Bihar Public Service Commission 15 Bailey Road, Patna
12. The Secretary Bihar Public Service Commission, 15, Bailey Road, Patna
13. The Joint Secretary - Cum - Examination Controller, Bihar Public Service Commission Bailey Road, Patna
14. The Vice Chancellor, Baba Saheb, Bhim Rao Ambedkar Bihar University, Muzaffarpur
15. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.

.... Respondent/s

with

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Civil Review No. 128 of 2017

Arising out of

LPA No. 1204 of 2016

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1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
 2. Director, Science and Technology Department, Govt. of Bihar, Patna.
 3. The Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna.



.... Petitioner/s

Versus

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

.... Respondent/s

with

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Civil Review No. 144 of 2017
Arising out of
LPA No. 1206 of 2016

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1. Dinesh Kumar, Son of Rajkishor Singh, Resident of Village- Andari, P.O.- Jaitia, P.S.- Gaurichak, District- Patna- 804451 (Bihar).
2. Alok Kumar, Son of Arvind Prasad Singh, Resident of Village- Paimarghat, P.O.+ P.S.- Punpun, District- Patna- 804453 (Bihar).
3. Ashish Kumar Pathak, Son of Baidyanath Pathak, Resident of Ramnagar Raj Compound, Near Parwati Kanya School, District- Bettiah- 845106 (Bihar).
4. Md. Moonim Lateefi, Son of Md. Latifur Rahman, Resident of Barsoi, Kadamgachhi, Sitalpur, Katihar- 854317 (Bihar).
5. Raushan Kumar, Son of Ravindra Sharma, Resident of Village- Garh Jalalpur, P.O.- Uttar Sherthu, P.S.- Ghosi, District- Jehanabad- 804418 (Bihar).
6. Niraj Kumar, Son of Sri Gopal Lal, Resident of Ashiyana More, Rajabazar, P.O.- B.M.P. Road, Salempur Dumra, P.S.- Phulwari, District- Patna- 800014 (Bihar).
7. Santosh Kumar, Son of Hira Lall, Resident of 1-4/88, Sector- 16, Rohini, North West Delhi, Delhi- 110089.

.... Petitioner/s

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 Road, Patna.
3. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.
4. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bailey Road, Patna.
5. The Vice-Chancellor, Babasaheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
6. The Registrar, Babasaheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
7. Jyant Ajat Shatru, son of late Ajat Shatru, resident of G/2, P.C. Colony, P.S. - Kankarbagh, Patna - 20.
8. Rupam, daughter of R.P. Singh, resident of village - Chatruchak, P.S. - Sultanganj, District - Bhagalpur.
9. Arvind Kumar, son of Shyam Kumar Jha, resident of Quarter no. A/10, M.I.T., P.S. - Brahampur, District - Muzaffarpur.
10. Abhishek Kumar, son of Arjun Prasad Yadav, resident of Panchsil Nagar, P.S. - Pandra, District - Ranchi, Jharkhand.
11. Deo Kumar Mahesh, son of Devendra Prasad Mishra, resident of Bijubigha Meskabour, P.S. - Narhat, District - Nawada.



12. Ravindra Prakash Kiran, son of late L.B. Rajak, resident of mohalla - Dhirachak, P.S. - Gardanibagh, District - Patna.
13. Shashwat, son of Kamal Kumar Mukherjee, resident of Gurunanakpura, P.S. - Industrial Area, District - Bhagalpur.
14. Alok Kumar son of Ashok Kumar Sharma resident of Bishwashpur, P.S. - Amarpur, District - Banka.
15. Vivek Kumar son of Rabindra Kumar Shukla resident of Q.No. C/9, M.I.T. Campus, P.S. - Brahampura, District - Muzaffarpur.
16. Amit Bhushan Srivastava, son of Krishna Bhushan Srivastava resident of Juran Chapra, Road No. 2, P.S. - Brahampura, District - Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Singh, Advocate
Mr. Ashish Giri, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 31-07-2017

All these applications have been filed seeking review of a common order passed on 23.01.2017 by which two Letters Patent Appeals L.P.A. No. 1206 of 2016 and L.P.A. No. 1204 of 2016 have been decided. Two of the Review Applications, namely, Civil Review No. 128 of 2017 and Civil Review No. 127 of 2017 are filed by the State Government and Civil Review No. 144 of 2017 is filed by private individuals who feel aggrieved by the order of the Writ Court.

2. The question before the Division Bench in the Letters Patent Appeal was as to whether for appointment on the post of Assistant Professors in Government Engineering Colleges in the State of Bihar a candidate who has obtained M.Sc. Engineering Degree



granted by Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur or any other University is eligible and as to whether the said qualification is equivalent to and at par with the qualification prescribed for appointment to the post in question i.e. B.E./B.Tech. and M.E/ M.Tech.

3. Even though the scope of review is very limited and on going through the facts and circumstances of the case in detail, we find that available on record in the counter affidavits and the documents filed are two documents which goes to show that their consideration is required to be made and without considering these documents, the decision in the matter by the Division Bench may cause great prejudice to various persons and even the entire selection process may be vitiated on account of the same.

4. The learned Writ Court treating the qualification not to be equivalent dismissed the writ petition and on an appeal being filed by the respondent private appellants herein, the writ petition was allowed and the Commission was directed to permit the appellants before the Division Bench to participate in the process of selection. The question before the Writ Court and the Appellate Court was as to whether these qualifications were equivalent.

5. Normally, as indicated hereinabove, in a review application these issues need not be looked into but we find that the



National Council for Teachers Education has issued a gazette notification published in the Government of India Gazette on 6th of January, 2016 i.e. much before the L.P.A. was decided by the Division Bench indicating that the M.S. degree acquired from NIT, IIT and IISC, Bangalore etc. for appointment on the post of Assistant Professor in Engineering discipline can be considered as equivalent to M.E./M.Tech. for all purposes. Similarly, there is another communication available on record issued by the Bhim Rao Ambedkar Bihar University dated 11.03.2017 wherein a contrary decision is communicated to say that the M.Sc. Engineering degree granted by the University is not equivalent to a degree of M.Tech. These two documents which are of vital importance in deciding the issue have not been considered by the Division Bench. In fact, one of the documents, namely, the document issued by the Babasaheb Bhimrao Ambedkar Bihar University on 11.03.2017 was not even placed before the Division Bench when the matter was heard and decided. However, in view of the divergent nature of the documents which have come on record and as the question involved in the matter has widespread repercussion and on a complete reading of the order passed by the learned Division Bench on 23.01.2017, we find that these issues have not been addressed to in the backdrop of the notifications and the documents now available on record, it is a fit



case where the application should be allowed, the order dated 23.01.2017 passed by the Division Bench in L.P.A. Nos. 1206 of 2016 and 1204 of 2016 recalled and the matter directed to be reheard.

6. We are conscious of the fact that normally in a review application until and unless error apparent on the face of the record are not pointed out, matter should not be reopened but in this case, we find that the issue involved pertains to appointment to the post in question and various considerations which were required to be made were not placed before the Court as a result, it has become necessary to reconsider the matter and, therefore, we allow all these applications, recall the order dated 23.01.2017 passed in L.P.A. No. 1206 of 2016 and L.P.A. No. 1204 of 2016, restore the Letters Patent Appeals to its original file and direct the Registry to place the matter for consideration before the appropriate Bench within two weeks.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	03.08.2017
Transmission Date	

