

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11397 of 2017

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Satish Kumar Tiwari Son of Mahendra Kumar Tiwari Resident of Village-
C/62 Rajiv Nagar, Kalyanpur, Lucknow -226022 (Uttar Pradesh).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Education Government of Bihar.
2. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg (Bailey Road), Patna-1
3. The Joint Secretary-Cum-Controller of Examination, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg (Bailey Road), Patna-1

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Advocate Mr. Prince Kumar Mishra, Advocate Mr. Sanket, Advocate
For the State	:	Mr. S.K.Ranjan, AC to GP-17
For BPSC	:	Mr. Sanjay Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 03-04-2018 Heard Mr. Mrigank Mauli, learned counsel appearing on behalf of the petitioner and Mr. Sanjay Pandey, learned counsel appearing on behalf of the Bihar Public Service Commission as well as the State.

The present writ application has been filed for a direction to the respondents for preparation of wait list in terms of Statute of 2014 Clause 5.7.

In the counter affidavit the respondent- BPSC has come out with a plea that preparation of waiting list is not possible for the Commission and therefore, the Statute which enjoins a duty on the Commission to prepare wait list, cannot be



acted upon.

This kind of plea of the Commission is absurd and cannot be accepted. If the law requires that a particular thing is to be done in a particular manner, it has to be done in the manner prescribed or not at all, this principle was enunciated by the Chancery Court in **Taylor Vs. Taylor (1875) (1) Chancery Division 426** which has been followed for the last more than hundred of years. In our system, basically the authority vested with the power is supposed to act within the parameters of the law. The Statute of 2014 is for its application and departure from the Statute is only at the pain of invalidation. Principle in this regard is well settled by Mr. Justice Frankfurter in the case of **Viterelli Vs. Ceatan**: which has been followed by the Indian Courts in numerous cases including **Ramana Dayaram Shetty Vs. The International Airport: AIR 1979 SC 1628**. This principle was accepted as integral part of Article 14 to reduce arbitrariness in decision making process and any departure from the same would be taken at the pain of invalidation, in view of the above, the Court does not find any justification for the action of the Commission for not preparing the wait list.

In view of the above, the stand of the Commission indicated in Annexure-C to the counter affidavit is hereby



rejected. The respondent- BPSC is hereby directed to prepare a wait list in terms of Clause 5.7 of the Statute, 2014 in the matter of appointment of Assistant Professor. The entire exercise in this regard must be completed by the Commission within a maximum period of 60 days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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