

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9198 of 2016

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1. Sanjay Kumar Son of Sri Rajendra Prasad Resident of Village- Gardhani Bagh, Jhunjhun Mahal New Yarpur, Patna- 1, PS- Gardanibagh, District Patna.
 2. Sanjeev Kumar Son of Sri Tileshwar Kumar Resident of Village- Adarsh Bihar, Colony, Rukunpura, PS Rupashpur Patna- 14 District Patna.
 3. Md. Fayaj Ahmad Son of Sri Md. Nijanuddin Resident of Village- Sarai, Post Karanja, PS Naubatpur, Patna.
 4. Arbind Kumar Singh Son of Yogendra Roy Resident of Village- Bararhi, P.O- Bhalwar, PS Bagengola, District Buxar.
 5. Rajesh Kumar Son of Bibha Kumar Singh Resident of Village + P.O. Fatehpur, Chain PS Awatar Nagar, District Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar Patna.
2. The Director, Research and training Department Bihar, Patna.
3. The Secretary, Bihar, Public Service Commissioner, Patna.
4. The Joint Secretary cum Examination Controller, Bihar Public Service Commission, Patna.
5. The Director, National Council for Teacher Education, New Delhi.
6. The Regional Director, National Council for Teacher Education, Bhubaneshwar.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 9209 of 2016

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1. Anil Kumar, S/o Deep Narain Singh, R/o Mohalla Patel Colony, Sandalpur Road, P.S. Bahadurpur, Distt. Patna,
2. Somesh Kumar, S/o Ram Swaroop Singh, R/o Mohalla Ram Krishan Nagar, P.S. Ramkrishna Nagar, Distt. Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna,
3. The Regional Director, National Council for Teacher Education,



Bhubaneshwar,

4. The Chairman, Bihar Public Service Commissioner, Patna.

5. The Secretary, General Administration Department, Govt. of Bihar, Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 9704 of 2016

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1. Dr. Manoj Kumar Verma @ Manoj Kr. Verma Son of Late Jagdeo Prasad
Resident of Village - Jaynagar Basti, Tola - Fardahi, P.S. - Jaynagar, District -
Madhubani and presently posted as Lecturer in deputation at College of Teacher
Education (Government Teachers Training College), Turki, Muzaffarpur, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old
Secretariat, Patna, Bihar.
2. The Principal Secretary, General Administration Department, Government of
Bihar, Patna.
3. The Principal Secretary, Law Department, Government of Bihar, Patna.
4. The Principal Secretary, Education Department, Government of Bihar, Patna.
5. The Principal Secretary, Finance Department, Government of Bihar, Patna.
6. The Director, Research & Training Education Department, New Secretariat,
Patna, Bihar.
7. The Secretary, Bihar Public Service Commission, Patna, Bihar.
8. The Secretary, National Council for Teacher Education, New Delhi.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 3390 of 2016

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1. Prabhunath Singh Son of Krishna Singh, Resident of Mohalla - Amer, Police
Station - Bidupur, District - Vaishali.
2. Rakesh Kumar, Son of Nageshwar Prasad Rai, Resident of Village - Sabalpur,
Police Station - Sonpur, District - Saran.
3. Ritu Kumari, D/o Janardhan Rai, W/o Jeetendra Kumar Yadav, Resident of
Mohalla - Ajwan, Police Station - Naubatpur, District - Patna.
4. Md. Mahtab Alam, Son of Md. Mansoor alam, Resident of Village - Boulia



Diara, Police Station - Manihari, District - Katihar. '

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Chief Secretary, Bihar, Patna.
3. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
4. The Director, Administration cum Additional Secretary, Department of Education, Bihar, Patna.
5. The Director, Research & Training Directorate, Govt. of Bihar, Patna.
6. Barun Kumar S/o Late Ramlakhan Prasad Resident of Ramchandrapur, P.S. Biharsharif, Distt.- Nalanda.
7. Ajay Tiwari S/o Jagdish Tiwari Vachaspati Nagar, Mahendru , P.S.Bahadurpur, Distt. Patna.
8. Satish Narayan S/o Ramprabodh Kumar C/o Jeet Prasad Singh, New Colony, J.S Lane, Chaudhary tola, P.O. Mahendru , Distt. Patna.
9. Namita Narayan D/o Badri Narayan Resident of Flat No. 401, Amba Sadan, IAS Colony, Kidwaipur, P.S. S.K. Nagar, Patna.
10. Rakesh Kumar Singh S/o Dhiraj Narayan Singh Resident of Mohalla- Anand Bazar, P.O. Danapur Cant, P.S. Danapur, Dist. Patna

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 9991 of 2016

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1. Dr. Samrendra Kumar Sudhanshu, Son of Sri Mahendra Jha Pankaj, Resident of Village- Harilochanpur, PS Sarairanjan, District Samastipur.
2. Santosh Kumar, son of late Ramudgar Roy, Resident of Village - Goait, PS Sakra, District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Governor House, Patna.
3. The Secretary/Deputy Secretary cum Examination Controller Bihar Public Service Commission Patna.
4. The Director, NCTE, New Delhi.

.... Respondent/s



Appearance:

(In CWJC No.9198 of 2016)
For the Petitioners : Mr. Sanjay Singh and
Mr. Nagendra Sharma, Advocates.
For the Respondent-State: Mr. Subhash Prasad Singh, GA 3.
For the B.P.S.C.: Mr. Sanjay Pandey, Advocate.
For the N.C.T.E.: Mr. Sunil Kumar Singh &
Mr. Ranvijay Singh, Advocates.

(In CWJC No.9209 of 2016)
For the Petitioners : Mr. Santosh Kumar Singh, Advocate.
For the Respondent-State: Mr. Manish Dhari Singh, AC to PAAG 1 &
Mr. Sriram Krishna, AC to SC 11.
For the N.C.T.E.: Mr. Sunil Kumar Singh &
Mr. Ranvijay Singh, Advocates.

(In CWJC No.9704 of 2016)
For the Petitioners : Mr. Rakesh Kumar Sharma, Advocate.
For the Respondent-State: Mr. Lalit Kishore, Advocate General.
For the B.P.S.C.: Mr. Sanjay Pandey, Advocate.
For the Union of India: Mr. Ram Anurag Singh, CGC.
For the N.C.T.E.: Mr. Sunil Kumar Singh &
Mr. Ranvijay Singh, Advocates.

(In CWJC No.3390 of 2016)
For the Petitioners : Mr. Sanjay Kumar, Advocate.
For the Respondent-State: Mr. Lalit Kishore, Advocate General,
Mr. Subhash Pd. Singh, G.A. 3 &
Mr. Bishwa Bibhuti Kr. Singh, AC to AG
For the B.P.S.C.: Mr. Sanjay Pandey, Advocate.
For the Intervenor: Mr. Amit Shrivastava,
Ms. Soni Shrivastava and
Mr. Ravi Bhardwaj, Advocates.
For the N.C.T.E.: Mr. Sunil Kumar Singh &
Mr. Ranvijay Singh, Advocates.

(In CWJC No.9991 of 2016)
For the Petitioners : Mr. Sanjeev Kumar Jha, Advocate.
For the Respondent-State: Mr. Lalit Kishore, Advocate General,
Mr. Manish Dhari Singh, AC to AG &
Mr. Saroj Kumar Sharma, AC to AAG 3.
For the N.C.T.E.: Mr. Sunil Kumar Singh &
Mr. Ranvijay Singh, Advocates.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)



Date: 06-04-2018

All these Writ Applications have been clubbed together in view of the submission made at the bar that common questions of facts and law are involved in all these matters.

2. Basically the petitioners are challenging the laying down of educational qualifications for appointment on the post of Lecturer in Training Colleges as mentioned in the Advertisement bearing no. 6 of 2016 whereby the requisite qualification prescribed for appointment is Post Graduate Degree with minimum 55% of marks and Master in Education (M.Ed.) also with minimum 55% of marks.

3. In C.W.J.C. No. 9198 of 2016, which has been taken as the lead case, a copy of the advertisement has been brought on record as Annexure-4 series. It is the case of the petitioners that the Bihar Education Service Rule, 2014 (hereinafter referred to as 'the Rule 2014') which has been framed by the Government of Bihar in exercise of its power under proviso to Article 309 of the Constitution of India whereunder the procedure for recruitment and promotion in the Bihar Education Service has been provided is not in consonance with the regulation framed by the National Council for Teacher Education (hereinafter referred to as 'the NCTE'). A copy of the Rule 2014 has been placed as part of Annexure-4 series to the Writ Application



whereas a copy of the regulation known as National Council for Teacher Education (Recognition Norms and Procedures) Regulations, 2014 (hereinafter referred to as 'the Regulations 2014') has been placed as Annexure-6 to the Supplementary Affidavit filed on behalf of the petitioners.

4. In all the Writ Applications there is a common contention that the advertisement for the post of Lecturer of Teachers Training Colleges in the State of Bihar vide Advertisement No. 02/16 issued on 03.05.2016 and Advertisement No. 06/16 issued on 14.05.2016 prescribes educational qualification criteria ignoring the Regulations 2014 framed by the 'NCTE' and, therefore, the advertisements so published are required to be corrected and modified accordingly.

5. In CWJC No. 9209 of 2016, the prayer is to declare that Rule 28(ii) of the Rule 2014 framed by the Government of Bihar is ultra vires as it violates Rule 4(4) (ii) of the Regulations of 2009 framed by the 'NCTE' and violates Regulation 5.2 of the Regulations of 2014.

6. In CWJC No. 3390 of 2016, again a similar kind of prayer has been made.

7. In course of hearing of the Writ Applications learned counsel for the petitioners in these Writ Applications contended that



from a perusal of the Regulations framed by the 'NCTE' which has been notified on 28.11.2014 it would appear that the Regulations of 2014 lays down the eligibility criteria under Regulation 5.2(A) which provides that the eligibility qualifications for the post of Principal / HOD will be Post Graduate Degree in Science / Social Science / Arts / Humanities with 55% marks and M.Ed. / M.A. (Education) / M.El. Ed with minimum 50% marks. It is further submitted that under Regulation 5.2(B) the qualifications for Teacher Educators in D.El.Ed. is provided as Masters Degree in Social Science / Humanities / Science / Maths / Language with 50% marks, and Med. With 50% marks or M.A. (Education) with 50% marks (except two positions) where the requirement shall be Post Graduate in Philosophy / Sociology / Psychology with 50% marks and B.El.Ed. or B.Ed or D.El.Ed with 50% marks, or M.Phil / Ph.D in Education.

8. Referring to Annexure-4 series and the Rules of 2014 framed by the Government of Bihar, learned counsel submits that the Government of Bihar has come out with an eligibility qualification of 55% marks in Post Graduation and also 55% marks in M.Ed. According to the learned counsel, the educational qualification required by the Government of Bihar for purpose of recruitment on the post of Lecturer is in conflict with the educational qualification required by the 'NCTE' under the Regulations of 2014. Learned



counsel submits that the Government of Bihar is obliged to follow the same eligibility condition for qualification which is provided under the Regulations of 2014.

9. A Counter Affidavit has been filed on behalf of respondent no. 2 as well as respondents no. 5 & 6. The Assistant Director, Research & Training, Education Department, Govt. of Bihar has submitted that with a purpose of qualitative education in Government Schools proper training of the teachers is essential. The State Government has created different posts of Teacher Educators for Primary Teacher Education College (PTEC), Block Institute of Education and Training (BITE), District Institute of Education and Training (DIET), College of Teacher Education (CTE) and also for the State Council of Educational Research and Training Council (SCERT). A Research and Teaching Sub Cadre has been created by the Government to post the Lecturers in the Teachers Training Colleges, who will train the students for becoming eligible in Teaching Service, therefore, eligibility has been fixed as Master Degree with 55% marks and M.Ed. with 55% marks. It is submitted that the 'NCTE' has issued guidelines and regulations for conducting the Training Colleges and minimum qualification has been prescribed for the purpose of posting of Lecturers, according to which, a Training College in order to get recognition must have lecturers who have



secured their Post Graduate Degree with 50% marks but the decision for appointment of Lecturers in the Training Colleges is to be made by the State Government. It is submitted that it is within the domain of the State Government to frame such rules as have been framed for purpose of appointment and fixed the requisite qualification which is necessary for betterment of education. It is submitted that the State Govt. has created a separate cadre keeping in mind the objective which is required to be achieved.

10. In the Counter Affidavit filed on behalf respondents no. 5 & 6, the Regional Director, Eastern Regional Committee, National Council for Teacher Education, has stated that the 'NCTE' is a statutory authority created and constituted by the Central Government under the National Council for Teacher Education Act, 1993 with the objective, inter alia, to provide for the establishment of a National Council for Teacher Education with a view to achieve planed and co-ordinate development of teacher education system throughout the country, the regulation and proper maintenance of norms and standards in the teacher education system and the matters connected therewith.

11. It is stated in Paragraph 6 of their Counter Affidavit that as per Clause 5.4 of NCTE Regulations, 2014, the terms and conditions of service of teaching and non-teaching staff including



selection procedure, pay scales, age of superannuation and other benefits shall be as per the policy of the State Government / Affiliating Body.

12. Having heard learned counsel for the parties and on perusal of the records we are of the considered opinion that all the Writ Applications are thoroughly misconceived. So far as the Regulations of 2014 framed by the 'NCTE' is concerned, it has a different object to be achieved. The applicability clause of the Regulations as contained in Regulation 3 clearly provides as under:-

“3. Applicability.- These regulations shall be applicable to all matters relating to teacher education programmes for preparing norms and standards and procedures for recognition of institutions, commencement of new programmes and addition to sanctioned intake in the existing programmes, including the following namely:-

- (a) recognition for commencement of new teacher education programmes which shall be offered in composite institutions;
- (b) permission for introduction of new programmes in existing teacher education institutions duly recognized by the Council;
- (c) permission for additional intake in the existing teacher education programmes duly recognized by the Council;
- (d) permission for shifting or relocating of premises of existing teacher education institutions;
- (e) permission for closure or discontinuation of recognized teacher education programmes, or institutions as the case may be;



Provided that for teacher education programmes offered through open and distance learning, the respective norms and standards for each such learning programme shall be applicable.”

13. It is apparent from a bare reading of Regulation 3 of the NCTE Regulations, 2014 that the Regulation 3 is only applicable for matters relating to teacher education programme for preparing norms and standards and procedures which are enumerated under clause (a), (b), (c), (d) & (e) and for purpose of recognition of institutions, commencement of new programme and addition to sanctioned intake in the existing programme. The Regulation of ‘NCTE’ does not apply in the matters connected to the recruitment of teaching staff by the State Governments and in the Counter Affidavit filed on their behalf the ‘NCTE’ has have made it clear that the terms and conditions of service of teaching and non-teaching staff including selection procedure, etc. shall be as per the policy of the State Government / Affiliating Body.

14. The very regulation framed by the ‘NCTE’ is with respect to recognition of norms and procedures and any institute lacking in conforming the provisions of the regulations of the ‘NCTE’ shall not be eligible for recognition but while conforming to the provisions of the Regulations of 2014 framed by the ‘NCTE’ if the State Government has decided to recruit candidates having better



education qualification, it cannot be allowed to be argued by the petitioners that the eligibility qualification with a higher percentage of marks would be in conflict with the regulations framed by the ‘NCTE’.

15. In our considered opinion, the Regulations of ‘NCTE’ operates in a different field and is only for purpose of grant of recognition to the Institute. The Rules of 2014 framed by the Government of Bihar as contained in Annexure-4 cannot be said to be in conflict with the regulations of ‘NCTE’ and, therefore, the whole argument of the petitioners with a prayer to declare the Rules of 2014 framed by the Government of Bihar ultra vires and in conflict with the provisions of ‘NCTE’ is liable to be rejected. The respondent authorities are at liberty to proceed in terms of the advertisement and in accordance with law.

16. All these Writ Applications are dismissed accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.04.2018
Transmission Date	N/A

