

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3295 of 2010

Nand Kumar Pathak S/O Late Yogendra Pathak R/O Vill.- Mahishi, P.O. And
P.S. Mahishi, Distt.- Saharsa, Presently Working As Mali In Sri Ugra Tara
Bharti Mandan, Sanskrit College, Mahishi, Distt.- Saharsa Petitioner/s
Versus

1. The State Of Bihar
2. The Principal Secretary Human Resources Development Department,
Government Of Bihar, Patna
3. The Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar,
Darbhanga Through The Vice Chancellor
4. The Vice Chancellor The Kameshwar Singh Darbhanga Sanskrit University,
Kameshwar Nagar, Darbhanga
5. The Registrar The Kameshwar Singh Darbhanga Sanskrit University,
Kameshwar Nagar, Darbhanga
6. The Principal Sri Ugra Tara Bharti Mandan Sanskrit College, Mahishi, Distt.-
Saharsa Respondent/s

Appearance :

For the Petitioner/s	: Mr. S.V.K.Mangalam, Advocate
For the Respondent 3 to 5	: Mr. Gyanand Roy, Advocate
For the State	: Mr. Alok Kr. Rahi, AC to GP-21.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 24-07-2018

Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. After judgment of the Full Bench in the case of
Braj Kishore Singh & Ors. Vs. The State of Bihar and Ors.
reported in (1993)1 PLJR, the State Government formulated
the guideline for consideration of the case for regularization
against staffing pattern vide letter no. 1820 dated 17.11.1998.

3. In the instant case the respondents were directed to
consider the case of the petitioner in the light of the judgment of
the Full Bench and the guideline formulated vide letter no. 1820
dated 17.11.1998.



4. It appears from the order contained in Annexure-13 that the case of the petitioner was rejected on the ground that post is not admissible under the scheme of staffing pattern. Learned counsel for the petitioner submits that the State cannot adopt two different yardsticks in the matter of regularization in as much in other colleges the respondents have regularized the service of Mali under staffing pattern but different stand was taken by the respondent and petitioner was discriminated. If the petitioner claims that he was appointed as Mali and respondents have regularized Mali in other colleges, the respondents are required to examine the case of the petitioner afresh in the light of the judgment of the Full Bench reported in **2018 (2) PLJR 929** and the letter no.1820 dated 17.11.1998 and if in other colleges, the Malis were regularized under the staffing pattern, the respondents have to take fresh decision and the order contained in Annexure-13 will not come in the way of respondents taking afresh decision on the claim of the petitioner for regularization as respondents cannot adopt two yardsticks in the matter of regularization in view of the Clause-4 C of the Bihar Litigation Policy, 2011 and the judgment of Full Bench (Supra).

5. In view of the above, the writ petitioner may file



representation including the documents showing that similarly circumstanced Malis in different colleges have been regularized and petitioner has been discriminated. If such representation is filed alongwith a copy of this order, the respondents will take final decision on the representation and also decide the consequential benefit admissible to the petitioner within a period of three months from the date of filing of such representation ignoring Annexure-13.

6. It goes without saying that if the respondents no.2 finds the case of the petitioner fit for regularization in terms of judgment of the Full Bench (Supra) and the letter no. 1820 dated 17.11.1998, the recent full bench judgment reported in 2018(2) PLJR 929, the respondent no.2 will take appropriate decision on the consequential benefit admissible to the petitioner within the time frame as indicated above.

7. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.07.2018
Transmission Date	

