

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.300 of 2018

IN

Civil Writ Jurisdiction Case No. 7873 of 2017

- =====
1. Nitesh Kumar Son of Dhruv Narayan Prasad R/o Mohalla-Sri Krishna Nagar,P.S.-Motihari Town, District-East Champaran.
 2. Vijendra Kumar Son of Vinod Kumar Singh R/o Village-Math Lohiyar, P.S.-Harshidhi, District-East Champaran
 3. Abhinay Verma Son of Sri Shambhu Prasad Verma R/o At J.N. Roy Road, Sahibganj, P.S.-Sahibganj, District-Sahebganj, State of Jharkhand.
 4. Lalan Kumar Son of Nagendra Sah Resident of Village-Chhota Auraya, P.O. + P.S.-Adapur, District-East Champaran.
 5. Mukul Kumar Son of late Birendra Singh R/o Vilalge-Madhubani, P.S.-Sangrampur, District-East Champaran.
 6. Anshuman son of late Sri Krishna Sharma R/o Mohalla-Belwanawa, Near BSNL Office, Station Road, P.S.-Motihari Town, District Road, P.S.-Motihari Town, District-East Champaran.
 7. Sonal Kumar Son of Arvind Kumar R/o Vilalge-Mahuari Zinedpur, Sikndarpur, P.S.-Begusarai Town, District-Begusarai.
 8. Kusum Kumar Daughter of Vinod Sharma R/o Mohalla-Agarwa, P.S.-Town Motihari, District-East Champaran.
 9. Anshlika Daughter of Shailendra Shukla R/o Mohalla-Balua Tal (Infornt of Ugam Pandey College) P.S.-Motihari Town, District-East Champaran
 10. Sidharth Kumar Son of Dhruva Nath Prasad R/o Mohalla-Main Road, Motihari (Infront of Shalimar Sweets) P.S.-Motihari Town, District-East Champaran
 11. Rajnish Kumar Son of Sushil Kumar R/o Mohalla-Balua Tal P.S. -Town Motihari, District-East Champaran
 12. Mahesh Mishra Son of Uday Chandra Mishra R/o Mohalla- Azad Nagar, P.S.-Town Motihari District East Champaran.

.... Appellant/s

Versus

1. The Union of India through the Secretary Ministry of Science and Technology, New Delhi.
2. The State of Bihar, through the Principal Secretary, Science and Technology, Department, Government of Bihar, Patna.
3. The Principal, Motihari College of Engineering, Motihari.
4. The Special College Work Officer, Motihari College of Engineering, Motihari.
5. The Chairman, All India Council for Technical Education, New Delhi.

..... Respondents 1st set.

6. Suresh Das Son of Jailal Das R/o Village-Sherpar Bahori, P.S.-Mahua, District-Vaishali.
7. Raj Shekhar Son of Pashant Kumar Singh, C/o V.N. Singh R/o At + P.O.-Pakri Ashok, P.S.-Pipra, District-East Champaran.
8. Rajeshwar Pandey Son of late Suryadeo Pandey R/o Village-Sorpania, P.S.-Dhaka, District-East Champaran.
9. Shree Nath Thakur Son of late Rambilash Thakur R/o Village- Khajuria, P.S.-Govindganj, District-East Champaran.

.... Respondents 2nd set.

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Appearance:

For the Appellant/s : Mr. Karandeep Kumar, Advocate.



For the Respondent/s : Mr.

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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: 22-06-2018

Challenge in the present Letters Patent Appeal is to the judgment dated 06.12.2017 passed by a learned Writ Court in Civil Writ Jurisdiction Case No. 7873 of 2017. By the impugned judgment the learned Writ Court has refused to quash the advertisement / interview notice published in daily newspaper on 01.04.2017 for appointment of Guest Lecturer under different faculties in Motihari Engineering College, Motihari as also refused to issue direction for regularization of the services of the petitioners on their respective posts on which they are said to be working since 2009 / 2011.

2. The learned Writ Court has taken note of the fact that the respondents are taking steps for appointment of Guest Assistant Professors who conform to the qualification and eligibility as prescribed vide Annexure-C, Appendix-2 to the Counter Affidavit filed on behalf of the respondents no. 2 and 3. A perusal of the same would show that the Government of Bihar in exercise of its power conferred by the proviso to Article 309 of the Constitution of India has framed rules for appointment to different posts of teacher in



Government Engineering Colleges / Institutions, the rule is known as the Bihar Engineering Education Service Rules, 2014. The advertisement under challenge contains the eligibility qualification in terms of the said rules. It is in these circumstances that the learned Writ Court in Paragraph 8 of the impugned judgment recorded its views as under:-

“8. In view of the above, the writ application is disposed of with liberty to the department to replace those Guest Teachers, who does not answer the eligibility prescribed by the State of Bihar as indicated in Appendix-2 to Annexure-C to the counter affidavit and will not disturb those Guest Lecturers, who qualify the eligibility criteria contained in Appendix-2 to Annexure-C, till the regular appointment is made.”

3. It is the grievance of the appellants that even though they have no objection to the respondents recruiting Assistant Professors and replace them by regular Assistant Professors but they cannot be thrown out in the manner it has been sought to be done by issuing a fresh advertisement which is nothing but an attempt to replace the present set of Guest Lecturers by another set of Guest Lecturers.

4. Having gone through the materials available on record and upon consideration of the submissions advanced on behalf of the



appellants we find that the learned Writ Court has rightly taken a view as stated in Paragraph 8 of the impugned judgment. Whether a Lecturer / Teacher is a Guest Lecturer or a regularly recruited Assistant Professor, they must conform to the eligibility qualifications prescribed by the State of Bihar in the rules referred to here-in-above. The eligibility qualifications cannot be relaxed for the Guest Lecturer.

5. We do not find any reason to interfere with the impugned judgment.

6. The Letters Patent Appeal has no merit. It is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.07.2018
Transmission Date	N/A

