

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9432 of 2010

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Sushil Kumar Jha S/o Sri Brajeshwar Jha R/o Village and Post- Jogiara,
Via- Anadpur, P.S.- Bahadurpur, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
2. The Principal Secretary Human Resources Development Department,
Govt. of Bihar, Patna
3. The Director Secondary Education, Govt. of Bihar, Patna
4. The District Education Officer, Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Satya Ranjan Sinha
Ms. Seema Kumari

For the Respondent/s : (GA-4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

8 12-10-2018 The present writ petition has been filed for directing the respondents to consider the case of the petitioner for appointment on the post of Librarian. The petitioner is stated to have passed bachelor of Library and Information Science in the year 2008 from Alagappa University, Karaikudi-630003.

The respondents are stated to be not considering the case of the petitioner and other similarly situated persons for appointment. Nonetheless, it is submitted that the Hon'ble Apex Court by an interim order dated 10.05.2010 passed in S.L.P. (C) No. 10964 of 2010 had directed the respondents to permit such candidates who have obtained the degree from Alagappa



University to participate in the counseling for the post of Librarian.

The learned counsel for the petitioner has submitted that by an order dated 17.06.2010, this Court had allowed the petitioner to participate in the counseling subject to the result of the present writ petition. However, during the interregnum period it was directed that the result of the petitioner would not be declared and would be kept in a sealed cover subject to the final outcome of SLP (C) No. 10964 of 2010. It is submitted that the aforesaid Special Leave Petition has been disposed off by the Hon'ble Apex Court by a judgment dated 01.04.2014 and the Hon'ble Apex Court has found the said degree which have been obtained by the various candidates of Alagappa University to be valid for the purposes of consideration and appointment against the available vacancies depending upon the inter se merits reserved for other categories competing for the same. It would be relevant to reproduce the relevant portion of the aforesaid judgment dated 01.04.2014 herein below:-

“15. We are anguished by the very thought of the selection procedure dragging on for as long as four years between 2008 and 2012. Such inordinate delay and indolence is totally undesirable not only because it violates the fundamental rights of candidates who have qualified for appointment during the intervening period but also because it depicts a complete failure on the part of all concerned in regulating the selection and appointment process with a view to ensuring that the same is fair, objective and



transparent. We cannot help saying that several questions have bothered us in regard to the selection process itself which leaves much to be desired but since there is no challenge to the selection or the appointments made pursuant thereto, we refrain from making any observation in regard to those aspects.

All that we need say is that the selection and appointment of such a large number of employees under the local bodies ought to have been conducted in a more orderly fashion and more importantly the same should have been completed within the time frame stipulated for the purpose or such reasonable extension thereof as may have become absolutely inevitable. A selection process that lingers on for years can hardly measure up to the demands of objectivity, fairness and transparency especially when the method by which inter se merit of candidates was determined is neither stipulated in the Rules nor any guidelines issued for the Selection Committee to follow have been placed before us. Be that as it may, the question is whether the selection process stood completed before the Distance Education Council recognised Algappa University from where the petitioners have obtained their degrees.

Our answer is clearly in the negative. On their own showing, the respondents had not concluded the selection process till as late as middle of 2012 i.e. more than two years after the recognition order was passed by the Distance Education Council in favour of Algappa University. Petitioners had, in the meantime, been allowed to participate in the interviews under the orders of this Court passed on 10th May, 2010. By our order dated 14th March, 2011 we had directed the respondents not to fill up 54 posts of Librarians relevant to petitioners in SLP Nos.10964 and 12527 of 2010 and SLP (C) No.17421 of 2010 and two posts to be kept vacant relevant to SLP (C) Nos. 23850 and 23852 of 2010.

It is not in dispute that the petitioners have participated in the interview under the above orders and that requisite number of vacancies have also been reserved for their appointment in the event of their succeeding in the present case. It is also not in dispute that the result of the petitioners has been kept in sealed cover awaiting the ultimate outcome of the present appeals. In the circumstances, therefore, and keeping in view the fact that the validity of the post facto recognition granted by the Distance Education Council to Algappa University has not been assailed before us nor was the same under challenge before the High Court, we see no reason why the petitioners in these petitions should not be allowed the benefit of such recognition which implies that they shall be treated as eligible for consideration and



appointment against the available vacancies depending upon their inter se merit vis-a-vis other candidates competing for the same.

16. In the result we allow these appeals, set aside the order passed by the High Court and allow Writ Petition 17734 of 2000 with a direction to the respondents to consider the appellants for appointment against the available vacancies by treating them eligible for such appointment. Depending upon their inter se merit vis-a-vis other candidates who may be competing for the unfilled vacancies if any out of those advertised, the respondents shall issue the appointment orders to them if they are otherwise found to be fit and suitable for such appointment. The needful shall be done by the respondents expeditiously but not later than two months from the date of this order.”

In view of the positive declaration by the Hon’ble Apex Court by the aforesaid judgment dated 01.04.2014, I deem it fit and proper to direct the respondents to open the result of the petitioner, kept in a sealed cover, immediately and in case he has been found successful, necessary steps are directed to be undertaken for his appointment within a period of eight weeks from today.

The writ petition is allowed with the aforesaid directions.

(Mohit Kumar Shah, J)

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