

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.250 of 2015

In

Civil Writ Jurisdiction Case No.5621 of 2014

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1. Md. Abrar Hussain @ Abrar Hussain, Son of Late Md. Ghulam Hussain, resident of Mohalla - Raham Khan, Opposite Madarsa Karimia Banat, P.O. Lalbagh, District - Darbhanga
 2. Shamim Aadil Shirazi @ Shirazi, Son of Irfanur Rahman Bismil resident of Mohalla - Mahdauli, P.O. Shobhankarpur, District - Darbhanga
 3. Maroof Ahmad, Son of Late H. Zahoor Ahmad, resident of Mohalla - Urdu Bazar, P.O. Lalbagh, P.S. Laheriasarai, District - Darbhanga

... .. Appellant/s

Versus

1. Maulana Azad National Urdu University, Gachibowli, Hyderabad through its Vice Chancellor
2. The Vice Chancellor, Maulana Azad National Urdu University, Gachibowli, Hyderabad
3. The Registrar, Maulana Azad National Urdu University, Gachibowli, Hyderabad
4. The Regional Director, MANUU, Regional Centre, Patna 2nd Floor, Bihar State Co - Operative Bank Building, Ashok Raj Path, Near B.N. College, Patna
5. The Assistant Regional Director, MANUU, Regional Centre, Darbhanga, Mohalla - Ismail Ganj, Near Khan Road, P.O. Laheriasarai, District - Darbhanga
6. The Principal, Maulana Azad National Urdu University, Gachibowli, Hyderabad, Polytechnic, Darbhanga
7. Md. Anas Farooqui Son of Md. Asadullah resident of Mohalla - Abdullah Ganj, P.O./P.S. Laheriasarai, District - Darbhanga
8. Abul Fazal Reyas Sarwar @ Fazal Son of Tanwirul Islam resident of Plasmani, P.O./P.S. Bahadurganj, District - Kishanganj
9. Syed Nazre Imam Son of Syed Obaidur Rahman resident of Dharampur, P.O./P.S. Samastipur, District Samastipur
10. Md. Amzad Son of Late Md. Aslam resident of Mohalla - Baghmali, P.O./P.S. Hajipur, District - Vaishali
11. Arif Azad Son of Azad Ahmad resident of Shah Ki Imli, P.O. Jhauganj, P.S. Khajekalan, Patna City, Patna
12. Sharique Ahmad @ Sharique Son of Dr. Md. Jawaid Ahmad resident of C/54, Rose Villa, New Azimabad Colony, Sandalpur Road, Patna
13. Atif Faridi Son of I.K. Faridi resident of Faridi Manzil, Jawahar Lal Road, Kalyani Chowk, District - Muzaffarpur



14. Md. Ajmat Ansari, Son of Md. Jamaluddin Ansari resident of Sara Mohanpur, P.S. Sadar, District - Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Iqbal Asif Niazi, Advocate
Mr. Krishna Kant Singh, Advocate
For the University : Mr. Syed Firoz Raza, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-06-2018

Seeking exception to an order passed by the learned Writ Court on 18.12.2014 in C.W.J.C. No. 5621 of 2014, this appeal has been filed by the appellants.

The petitioners had filed the writ petition challenging the act of the University in question in the matter of conducting interview in pursuance to an employment notice issued on 28.10.2013 vide Notification No. 29/2013. The notification was for appointment on the post of Assistant Professors and the grievance of the petitioners was that they are not being called for participating in the process of interview and their candidature is not being considered.

When the writ petition was heard on 26.03.2014, the learned Writ Court took cognizance of the matter and passed a detailed order issuing notice to the respondent University



directing them to show-cause and the issue relating to territorial jurisdiction was also kept open. Further it was directed that appointments made in pursuance to the impugned order on the post of Assistant Professors shall be subject to outcome of the writ application. Subsequently, when the matter was taken up by the Writ Court on 10.11.2014, the preliminary objection with regard to territorial jurisdiction was taken note of and it was indicated that part of the cause of action did arise within the territorial jurisdiction of this Court and even though in not specific terms the order indicates that the preliminary objection was considered. Thereafter, the University was directed to give their say in the matter and the appointments were made subject to final outcome of the writ application.

After having passed the aforesaid two orders, when the writ petition came up for hearing on 18.12.2014, the learned Writ Court without taking note of the aforesaid orders passed, merit of the matter, grievance of the petitioners and the issue in question, only on the ground that the selections have already been made, the petition was disposed of without evaluating the grievance of the petitioners on merit and without considering various issues involved in the matter.

In our considered view, when the Writ Court had



taken cognizance of the matter on 26.03.2014 and had directed the University to give their say with regard to the issue in question, it was not appropriate on the part of the Writ Court to have disposed of the matter only on the ground that the selection process has been completed. If the selection process was completed in pursuance to the advertisement issued and when the advertisement and the process of selection was challenged in the Writ Petition and when the Court itself had directed for making the appointments subject to final outcome of the Writ petition it was appropriate for the Writ Court to have gone into various aspects of the matter, address them and not to dismiss the writ petition on the ground that appointments have been made.

Taking note of all these circumstances, we are of the considered view that the issue in question involved in the writ petition has to be examined on merit and this having not been done, it is a fit case where the appeal should be allowed, the writ petition restored to its original file and parties given liberty to ventilate their grievance before the Writ Court afresh in accordance with law.

Accordingly, we allow this appeal, quash the order dated 18th of December, 2014 passed in C.W.J.C. No. 5621 of 2014, restore the said writ petition to its original file and request



the Writ Court to proceed to decide the same on merit in accordance with law after hearing all concerned and granting the University an opportunity to file their counter affidavit.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.06.2018
Transmission Date	

