

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.673 of 2018

In
Civil Writ Jurisdiction Case No.9637 of 2017

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Awadhesh Kumar son of Sri Radha Mohan Singh, R/o Mohalla- Shikshak Colony, Bikramganj, P.S.- Bikramganj, District- Rohtas... .. Appellant

Versus

1. The State Of Bihar through Principal Secretary, Human Resources Development Department (Higher Education), Govt. of Bihar, Patna
 2. The Secretary, Department of Education, Govt. of Bihar, Patna
 3. The Additional Secretary, Department of Education, Govt. of Bihar, Patna
 4. The Bihar Public Service Commissioner, through its Secretary, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna-1
 5. The Secretary, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna-1
 6. The Chancellor Universities of Bihar, Patna
 7. Amrendra Kumar Mishra son of late Yamuna Mishra R/o village- Indrath Khurd, P.O. Kastan Mahadeo, P.S.- Bikramganj, District- Patna
- Respondents

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Appearance :

For the Appellant/s : Mr. Harsh Anuj, Advocate
For the Respondent/s : Mr. Ashutosh Ranjan Pandey -AAG 15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 18-07-2018 This Letters Patent Appeal has been filed for setting aside the order dated 17.04.2018 passed by the learned Writ Court in Civil Writ Jurisdiction Case No. 9637 of 2017 by which the learned Writ Court has refused to accept the submissions of the petitioner to give weightage to the candidates who have passed Bihar Eligibility Test (BET) and State Eligibility Test (SET) for the purpose of appointment on the post of Assistant Professor.

2. It appears that the petitioner-appellant challenged



the advertisement bearing no. 44-84/2014 as contained in Annexure-1 to the writ application on the ground that the advertisement contains that only the candidates having passed National Eligibility Test (NET) has to be given weightage. Relying upon a Division Bench judgment of this Court passed in L.P.A. No. 227 of 2016 (Annexure-6 to the writ application), the petitioner-appellant contended that in the said case Hon'ble Division Bench has categorically held that those who have cleared the BET which is the State Eligibility Test of Bihar, prior to 01.12.2002, would be eligible to apply as equivalent to NET for the post of Assistant Professor in the State of Bihar.

3. It is contended that despite their being judgment of the Hon'ble Division Bench on the said weightage, marks are not being provided to the candidates who have passed BET. In this regard communication dated 06.06.2017 under the signature of the Section Officer cum-Public Information Officer, Bihar Public Service Commission, Patna has been brought on record as Annexure-7 to the writ application. A perusal thereof shows that according to the respondents, the judgment of the Hon'ble Division Bench is with respect to giving equivalence to the BET/SET passed candidates to make them eligible to participate in the selection process along with the candidates who have



cleared NET. The respondents have communicated to the petitioner that the weightage of marks is to be provided only to the candidates who have passed NET in the concerned subject and has also passed Ph.D in the same subject without undergoing 2009 Regulations framed by the University Grants Commission.

4. The learned Writ Court held that there is a consistent view of this Court in various other writ applications and in the light of the decisions rendered in C.W.J.C. No. 14164 of 2017 and C.W.J.C. No. 1134 of 2017, the relief prayed by the petitioner-appellant cannot be allowed.

5. Learned counsel representing the appellant while assailing the impugned judgment submitted that once the candidates who have passed BET/SET examination and have Ph.D. degree, they are to be treated equal to those who have been awarded Ph.D degree and are qualified in NET.

6. We are unable to agree with the submissions of learned counsel representing the appellant as we find that the appellant are not able to appreciate the distinction in treating the qualification equivalent to other qualifications for the purpose of participating in the selection process and that of the weightage provided by an employer to a particular degree for the purpose



of considering their candidature in the selection process. We are of the considered opinion that these are the matters within the domain of the employer and this Court sitting in its writ jurisdiction or writ appeal would not exercise its discretion to issue an extra ordinary writ to the employer directing them to give a weightage to a particular class of degree holders or persons having certain qualifications.

7. We do not find any reason to interfere with the impugned judgment. This Letters Patent Appeal has no merit, it is accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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