

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14454 of 2010

1. Manoj Kumar, aged about 42 years, son of Sri Nand Kishore Thakur, resident of Village Gorgawa, P.S. Kundwa Chainpur, District-East Champaran.

2. Anil Kumar, son of Sri Murlidhar Singh, resident of Mohalla: Brahampura, P.S.Brahampura, Distt-Muzaffarpur.

... .. Petitioner/s

Versus

1. Rajendra Agricultural University, Pusa, Samastipur, through its Registrar.

2. Chancellor of Universities, Bihar, Patna.

3. Vice Chancellor, Rajendra Agricultural University, Pusa, Samastipur.

4. Recruitment Officer, Rajendra Agricultural University, Pusa, Samastipur.

5. Assistant Director (recruitment), Rajendra Agricultural University, Pusa, Samastipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12453 of 2011

1. Manoj Kumar, aged about 43 years, son of Sri Nand Kishore Thakur, resident of Village Gorgawa, P.S. Kundwa Chainpur, District-East Champaran.

2. Anil Kumar, son of Sri Murlidhar Singh, resident of Mohalla Brahampura, P.S.Brahampura, Distt-Muzaffarpur.

... .. Petitioner/s

Versus

1. Chancellor of Universities, Bihar, Patna.

2. Bihar Agricultural University, Sabour (Bhagalpur) through its Registrar.

3. Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.

4. Officer-Charge, Recruitment, Bihar Agricultural University, Sabour, (Bhagalpur).

5. The State of Bihar through -Agriculture Production Commissioner, Government of Bihar, Patna.

..... Respondent/s

Appearance :

For the Petitioner/s : Mr. Chittaranjan Sinha, Senior Advocate

Mr. P. N. Pathak, Advocate

Ms. Surya Nilambari, Advocate

For the Respondents-State : Mr. Ajeet Kumar, G.A.-9

Mr. Pankaj Kumar, AC to GA-9

For the Respondent University : Mr. D. K. Sinha, Senior Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR



ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-10-2018

1. In both these petitions under Article 226 of the Constitution of India, the respective petitioners have prayed to declare and hold the amendments of the statute 17.1(11) Chapter XVII of the Rajendra Agricultural University Act, 1987 as approved by the Board of Management of the University in its 63rd meeting held on 03.04.2004 and assented to by the Chancellor vide letter no.4275 dated 09.10.2004 as well as the amendments approved by the Board of Management of the University in its 76th meeting held on 23.09.2009 and assented to and conveyed by the Chancellor's letter dated 10.11.2009 in exercise of powers conferred under Sections 36(2) & (3) of the Bihar Agricultural Universities Act, 1987 as *ultra vires*, whereby and whereunder the essential criteria of having passed National Eligibility Test (NET) for being appointed to the post of Junior Scientist-cum-Assistant Professor has been relaxed. It is also prayed to declare and hold the entire consequential advertisement as well as the appointments made in pursuance thereto to be bad, void and *ab initio*.

2. We have heard learned counsel appearing on behalf of the respective parties at length.



3. At this stage, it is required to be noted that the recruitment process started in the year 2006 for the post of Junior Scientist-cum-Assistant Professor. Both the petitioners herein had applied for selection and appointment. However, they were not selected and other persons came to be selected. Therefore, both the petitioners preferred writ petitions being CWJC Nos.16187 of 2007 and 2278 of 2008 before this Court. The learned Single Judge dismissed the aforesaid writ petitions. At that time, the original writ petitioners did not thought it fit to challenge the amendment to the relevant provision which is now under challenge. It is required to be noted that against the dismissal of the aforesaid two writ petitions, even the Letters Patent Appeals have been dismissed and the persons selected earlier whose appointments were under challenge under the aforesaid writ petitions are working since many years, namely more than 10 years. Therefore, now and subsequent challenge to the amendment is nothing but an afterthought. Therefore, now if any relief to the original writ petitioners, as prayed for in the writ petitions, is granted, in that case, it will be upsetting the order passed by the learned Single Judge in the aforesaid two writ petitions being CWJC Nos.16187 of 2007 and 2278 of 2008 and the order passed



by the Division Bench in Letters Patent Appeal Nos.1458 of 2010 and 1566 of 2010.

3.1. It is also required to be noted at this stage that in the present petitions, the writ petitioners have also prayed to declare and hold the entire consequential advertisement as well as appointments made in pursuance thereto to be bad, void and *ab initio*. However, none of the affected persons, who are likely to be affected by grant of such reliefs, are joined as party respondents. In absence of them, even otherwise, no relief can be granted to the petitioners.

4. In view of the above and for the reasons stated above, on the aforesaid ground alone, both these Writ Petitions are dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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