

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.170 of 2016

1. Dr. Pravin Kumar Jha Son of late Narayan Jha Resident of Village-Sukhsena, P.s Barhara kothi, District Purnea.
2. Dr. Kishor Kumar Jha Son of late Braj Bhushan Jha Resident of Village-Salampur, Ps. Falka, District Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar throughn the Principal Secretary, Department of Education ,Government of Bihar,Patna.
2. The Director, Higher Education Department, Govt. of Bihar Patna.
3. The Chancellor, Universities of Bihar, Governor's Secretariat, Raj Bhawan, Patna.
4. The Bihar Public Service Commission(B.P.S.C), Bailey Raod, Patna through Secretary-cum-Examination Controller,
5. The Chairman,Bihar Public Service Commission(B.P.S.C), Bailey Raod, Patna
6. The Secretary-cum-Examination Controller, Bihar Public Service Commission, Bailey Raod, Patna
7. Ragini Ranjan wife of Not known to the petitioner Newly Selected and appointed as Assistant Professor in Maithili, L.N. Mithila University, Darbhanga through the Registrar, L.N. Mithila University , Darbhanga.
8. Satendra Kumar Jha Son of not known to the petitioners Newly Selected and appointed as Assistant Professor in Maithili, L.N. Mithila University, Darbhanga through the Registrar, L.N. Mithila University , Darbhanga.
9. Abhilasha Kumari wife of Not known to the petitioner Newly Selected and appointed as Assistant Professor in Maithili, L.N. Mithila University, Darbhanga through the Registrar, L.N. Mithila University , Darbhanga.
10. Krishna Mohan Thakur son of not known to the petitioner, Newly Selected and appointed as Assistant Professor in Maithili, B.N. Mandal Univerisity, Madhepura, through the Registrar, B.N. Mandal University, Madhepura.
11. Kumari Sandhya wife of Not known to the petitioner Newly Selected and appointed as Assistant Professor in Maithi, B.R. Ambedkar University, Muzaffarpur through the Registrar, B.R. Ambedkar University,Muzaffarpur.
12. Arun kumar Thakur son of not known to the petitioners Newly Selected and appointed as Assistant Professor in Maithili, L.N. Mithila University, Darbhanga through the Registrar, L.N. Mithila University , Darbhanga.
13. Bandana Kumari wife of Not known to the petitioner Newly Selected and appointed as Assistant Professor in Maithili, Magadh Univeristy , Bodh Gaya , through the Registrar, Magadh University, Bodh Gaya.
14. Bijayendra Jha son of not known to the petitioner, Newly Selected and appointed as Assistant Professor in Maithi, B.R. Ambedkar University, Muzaffarpur through the Registrar, B.R. Ambedkar University,Muzaffarpur.
15. Sweety Kumari Wife of not known to the petitioners, Newly Selected and appointed as Assistant Professor in Maithili, L.N. Mithila University, Darbhanga through the Registrar, L.N. Mithila University , Darbhanga.
16. Nantun Paswan Son of not known to the petitioners Newly Selected and appointed as Assistant Professor in Maithili, B.N. Mandal Univerisity, Madhepura, through the Registrar, B.N. Mandal University, Madhepura.



17. Manju kumari Wife of not known to the petitioners, Newly Selected and appointed as Assistant Professor in Maithili, Magadh Univeristy , Bodh Gaya , through the Registrar, Magadh University, Bodh Gaya.

... .. Respondent/s

Appearance :

For the Petitioners	:	Mr. Pramod Mishra, Advocate
For the BPSC	:	Mr. Sanjay Pandey, Advocate
For the State	:	Mr. Alok Kumar Advocate
For Respondent No. 11	:	Mr. Satish Chandra Mishra, Advocate
For Respondent No. 15	:	Mr. Shashi Bhushan Singh, Advocate
For Resp. 7,8,14,16,17	:	Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

10 03-12-2018 Heard learned Counsel for the petitioners and the learned Counsel for the respondents.

Two points have been raised by the Counsel for the petitioners to challenge their exclusion in the process of appointment of Assistant Professor in Maithili subject, under the advertisement (Annexure 4) published by the Bihar Public Service Commission, pursuant to requisition made by the Education Department, Government of Bihar on 20.11.2014.

Counsel for the petitioners has submitted that as per the University Statute of 2008 the Selection Board was to be constituted of three members of the rank of University Professor or above. The other point raised by the petitioners' Counsel is that the effect of University Statute of 2014 is that for Ph.D., which has been obtained by the petitioners, they have been given a weightage of 5 marks instead of 10 weightage marks for the Ph.D. acquired by them.

From perusal of the statute, it is evident that 10 weightage marks are to be awarded to those persons who acquired Ph.D. under the UGC Regulation of 2009. In respect of those who acquired Ph.D. otherwise, such as the instant petitioners, the statute contemplated grant of only 5 weightage



marks. The distinction made in the award of weightage marks is based on intelligible indifferencia.

The UGC guidelines of 2009 has been made basis for award of weightage mark 10.

It is the petitioners' case that they acquired Ph.D. not in accordance with 2009 UGC guidelines. The guidelines bringing about the distinction came way back in the year 2009. The statute under which the selection process has been conducted clearly contemplates that those who acquired Pd.D. qualification prior to 2009 guidelines were to be awarded 5 weightage marks. The petitioners have participated in the advertisement pursuant to the said 2014 University Statute. Now on having been declared unsuccessful they cannot be permitted to turn around and challenge the result when it has been conducted and weightage marks awarded as per the 2008 Statutes, merely for the reason that they have not succeeded in the selection process.

In so far as the other point raised by the petitioners regarding the illegal constitution of the Interview Board being not comprising of University Professors, this Court would observe that the Statute of 2014 for appointment contemplates that the Interview Board should be constituted of at least three subject experts nominated by the Chairman of the Commission. The Chairman of the Interview Board has to be Chairman or Member of the Commission nominated by him. There is no allegation that this requirement has been violated. The petitioners are placing reliance on the requirement as per the earlier statute of 2009 which was no longer in existence and University Statute of 2014 had come into existence under which selection had been conducted.



It is, therefore, apparent that the requirements are to be seen with reference to the 2014 statute for appointment of teachers for the University and not with reference to the earlier statute as claimed by the petitioners.

There is no allegation made by Counsel for petitioner that process of appointment has in any way violated the University Statutes of 2014.

The writ petition is, therefore, devoid of merit and the same is dismissed.

(Madhuresh Prasad, J.)

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