

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7289 of 2018

=====

Bihar Private Unani Medical Collage, Maulabag Phulwari Sharif Patna a registered association vide its registration no. 962/2017 through its Secretary Md. Shafiurrahman S/o Late Haji Mohammad Jaan Resident of Village-Maulabagh Fulwarisharif, P.S. Fulwarisharif, District-Patna, Bihar.

.... Petitioner/s

Versus

1. Union of India through its Principal Secretary Health Department New Delhi.
2. Central Council of Indian Medicine, New Delhi through its Secretary.
3. The State of Bihar through the Principal Secretary, Health Department, Patna.
4. The Special Secretary, Health Department, Patna.
5. The Director General, Ayush (Desi Chikitsa), New Secretariat, Govt. of Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali

For the Respondent/s : Mr. ANIL KUMAR SINHA -GA1

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 09-07-2018

Petitioner claims itself to be a registered union for Unani Employees and has moved this Court in a Public Interest Litigation seeking a writ of mandamus directing and commanding the respondent authorities to advertise the regular post for appointment of Reader (Parwachak), Associate Professor and Professor in regular pay scale in Government, Tibbi College and Hospital, Patna. A further direction has been sought to the respondent authorities to provide Reader, Superintendent and Deputy Hospital Superintendent, etc. regular post in regular pay scales and grade pay against the sanctioned



posts.

From reading of the statements made in the writ application it appears that the petitioner is not only seeking a direction to make appointment on various posts in the Colleges in question, but is also complaining about the certain appointments and in this connection the petitioner has referred a judgment of the learned Writ Court in CWJC No.10461 of 2005 decided on 14.01.2015 (Annexure-7 to the writ application). We also find that the grievance of the petitioner is against the temporary appointment of Principal of Government Tibbi College, Patna as the petitioner submits that the appointment of one Dr. Md. Zeyauddin as Principal has been made in the same pay scale in the Department of Tahaffuzi Wa Samaji Tib (T.S.T.) in Government Tibbi College, Patna, Bihar which according to the petitioner is in violation of the principles laid down by the Hon'ble Court and is against the rules of C.C.I.M. and Ayush (Ayurvedic, Unani and Homeopathy) Medical Teaching Service Rules, 2017.

In the nature of the pleadings available on the record, we are of the opinion that the writ-petitioner is agitating disputes relating to service matters. In the cases of **Hari Bansh Lal Vs. Sahodar Prasad Mahto & Ors. reported in (2010) 9 SCC 655**, **R.K. Jain Vs. Union of India** reported in (1993) 4 SCC 119 and **Dr.**



Duryodhan Sahu & Ors. Vs. Jitendra Kumar Mishra and Ors.
reported in (1998) 7 SCC 273, the Hon’ble Supreme Court has reiterated that a public interest litigation petition is not maintainable in service matters.

The issues raised by the petitioner in the present writ application cannot be allowed to be taken up in the present form. As regards the filling up of the vacant sanctioned post, it is for the Stake holders to take up the matter with appropriate authority of the government for consideration in accordance with law.

Finding no merit, we dismiss the writ application.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.07.2018
Transmission Date	

