

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14274 of 2010

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DR.NAND KISHORE PRASAD YADAV S/O Sri Asharfi Rai R/O Mohalla-
Prabhatpuri, Maripur, P.S.- Kazi Mohhamadpur, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through the Principal Secretary, Human Resources Development Department, Bihar, Patna
2. Secretary, Human Resource Development Department, Bihar, Patna
3. B.R.A. Bihar University, Muzaffarpur Through Its Registrar
4. Vice Chancellor, B.R.A. Bihar University, Muzaffarpur
5. Registrar, B.R.A. Bihar University, Muzaffarpur
6. Governing Body, Akshaybat College, Mahua, Vaishali Through Its Secretary
7. Secretary, Governing Body, Akshaybat College, Mahua, Vaishali
8. Principal, Akshaybat College, Mahua, Vaishali
9. Shri Jawahar Lal Ram S/O Shri Sheo Nath Ram R/O Village P.O.- Khwaspur, P.S.- Basantpur, Distt.- Siwan
10. Smt. Gita Tiwari D/O Radhdkant Tiwari R/O Shankarpuri, Saadpura, P.O.- Ramna, P.S.- Muzaffarpur, Distt.- Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhinav Srivastava
For the Respondent/s : Mr.Gp15

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 25-04-2019 The present writ petition has been filed for directing the respondent authorities to cancel the appointments of the respondents no. 9 and 10, who have been appointed on the posts of Lecturer in Zoology at Akshaybat College, Mahua, Vaishali on the ground that they do not fulfill the minimum requisite education qualifications for appointment against the post of Lecturer.

2. The brief facts of the case are that the petitioner and the



respondents no. 9 and 10 had applied for appointment on the post of Lecturer (Zoology) in the aforesaid college in pursuance to the advertisement No. 942 of 1989 / 490 of 1994. It appears that subsequently, the name of the petitioner and the private respondent were recommended by the Bihar College Service Commission to the aforesaid college in the year, 1997, leading to appointments of the petitioner and respondent no. 10 as Lecture (Zoology) in the aforesaid college.

3. The Respondent No. 9 had challenged the appointment of the petitioner herein by filing a writ petition bearing C.W.J.C. No. 2780 of 1998. The petitioner had also preferred a separate writ petition bearing C.W.J.C. No. 3628 of 2000, challenging the revised recommendation of the Commission dated 5.2.2000. Both the said writ petitions were clubbed together and heard by a coordinate Bench of this Court, which by a detailed judgment dated 26.6.2000, held that the appointment of the petitioner, made by the Managing Committee of the aforesaid College, is illegal and further directed to consider the case of the respondent no. 9 herein for appointment against the second post of Lecturer (Zoology) in pursuance to the recommendation of the Commission dated 11.3.1997, as reiterated vide memo dated 5.2.2000. The petitioner had then challenged the aforesaid



judgment dated 26.6.2000, by filing L.P.A. No. 1020 of 2000 and L.P.A. No. 1108 of 2000, but the same was dismissed by a judgment dated 25.6.2003 and the learned Division Bench held that the claim of the petitioner herein for appointment on the post of Lecturer (Zoology) was rightly rejected by the learned Single Judge and the private respondent no. 9 herein has been correctly directed to be appointed as Lecturer (Zoology) in the aforesaid college.

4. Now, the petitioner, it appears with vengeance, has tried to assail the appointments of the private respondents no. 9 and 10, which had been confirmed in the earlier round of litigation, as aforesaid, to which the petitioner was a party, on the ground that the respondents no. 9 and 10 do not possess the minimum requisite education qualifications for appointments on the post of Lecturer. This is clearly malafide and cannot be permitted inasmuch as the appointments of the respondents no. 9 and 10 have already been upheld to be valid by the learned Division Bench, a litigation to which the petitioner was also a party and had full opportunity to canvass all such points as were available under the law including the issue of the private respondents not possessing the minimum requisite educational qualifications, hence, the present writ petition is clearly barred by the



principles of res judicata and constructive res judicata.

5. For the reasons mentioned hereinabove, there is no merit in the present case, accordingly, the same is dismissed, however, without any order as to costs.

(Mohit Kumar Shah, J)

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