

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13885 of 2019

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Dr. Quazi Md. Kamran @ Md. Quazi Muhammad Kamran, Son of Quazi Mohammed Imran, Resident of Idagah, P.O.- Barahpura, Block- Jagdishpur, P.S.- Ishakchak, Dist.- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Higher Education, Government of Bihar.
2. The Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
3. The Director, Technical Education, Department of Science and Technology, Government of Bihar, Patna.
4. The Vice-Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
5. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur.
6. The Director, MBA Programme, TMBU.
7. The Committe Members, Professional Courses, TMBU.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sandeep Patil
For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 12-07-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Petitioner has filed present writ application for
following reliefs:-

(a) The respondents should be restrained
to conduct fresh interview after three year's
experience/period of faculty members, without
conducting an interview contract should be
renewed of faculty member without gap of seven
days



(b) The respondents (Advisory Committee), Professional courses passed a resolution dated 15.05.2019 exempted non-teaching staffs from appearing an interview for renewal of their contractual service, whereas teaching staff, if opt for 3rd segment of contractual service have to participate in fresh interview.

(c) The petitioner stated that the guest teacher are empowered to evaluate the answer sheet why the contractual teacher cannot evaluate the answer sheet and therefore faculty member were deprived of such benefits.

(d) The respondents have liberty to hold interview for fresh candidate against vacant post, now interview are conducted for already working staffs which is highly experienced & qualified candidates.

(e) To grant all the consequential relief/reliefs to which the petitioner is entitled as per “All India Council for Technical Education” (AICTE) Rules.

(f) To the respondents be directed for continuing this petitioner as faculty member during pendency of this writ petition and simultaneously any coercive steps/requirements during the pendency of this writ petition.

Regular course or technical course in any University is regulated by rules and regulation and it is for the Chancellor of the University under the University Act to provide



mechanism for starting new course regular or technical. The Board is not competent issue positive direction for starting or regulating any academic course. The Court in no case can direct how the University will carry recruitment or appoint teaching or non teaching employee, the appointments are regulated by the University Act and the statutes framed thereunder. Petitioner has not referred to any statutory scheme which has been violated by the respondents in the matter of appointment. Petitioner claim that he should be given appointment as petitioner is continuing for last five years. He placed reliance on the judgment of Delhi High Court in the case of Abhiman Chaoudhary Vs. Delhi High Court. The decision of the Single Judge of the Delhi High Court is of no help to the petitioner as the Delhi High Court relied upon the judgment of State of Haryana Vs. Piyara Singh which is no more good law in view of the subsequent development in the judgment of Apex Court in Secretary, State of Karnataka Vs. Uma Devi. The Apex Court has categorically held out that appointment by way of regularization is not a mode of appointment. In the considered opinion of this Court, the judgment of the Delhi High Court on which reliance have been placed by the petitioner is of no help to this Court as the University Act and statute which regulates the University



education in the State of Bihar has definite scheme and the Court does not find any justification for issuance of any positive direction in this case the Court does not find that the petitioner has any right under the University Act or Statute warranting interference in this case. For the reasons discussed herein above the Court does not find any merit in the writ it is dismissed.

(Anil Kumar Upadhyay, J)

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