

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7205 of 2018

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1. Kumar Sachchidanand S/o Prof. Sri Satya Narayan Gupta resident of Jainagar Ward No. - 2, Gupta Marg, South to F.C.I. Godown, At and P.O. - Jainagar, P.S. Jainagar, District - Madhubani Bihar.
 2. Digvijay Diwakar S/o Sri Jagdish Paswan resident of village - Sarbsima, P.O. Lohna Road, P.S. Bhairvsthan, District - Madhubani Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bihar Public Service Commission B.P.S.C. through its Special Secretary, 15, Jawahar Lal Nehru Marg
3. The Special Secretary cum Examination Controller, Bihar Public Service Commission B.P.S.C., 15, Jaw
4. The Section Officer, Direct Recruitment Cell, 5B University Branch, Bihar Public Service Commission

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shashi Nath Jha
For BPSC	:	Mr. Ashok Kumar Choudhary
For the Respondent/s	:	Mr.Narendra Kumar -Gp20

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 09-09-2019 Heard learned counsel for the petitioner and the counsel appearing on behalf of the State as well as learned counsel for the BPSC.

2. Grievance of the petitioners in the present writ application is exclusion of the candidature of the petitioners from consideration zone.

3. Learned counsel would submit that BPSC invited application pursuant to the advertisement contained in Annexure-3. Thereafter, the petitioners applied for appointment.



The candidature of the petitioners was rejected.

4. Learned counsel submits that in the advertisement vide Item No. 10 the BPSC has mentioned History as subject and in Item No. 16 the respondent BPSC has mentioned Ancient Indian History and Archaeology and in Item No. 17 Ancient Indian History and Culture and in Item No. 18 Ancient Indian History and Asian Study was mentioned as subject.

5. He submits that expression History is wide enough to cover the Buddhist, Jaina, Gandhian and Peace Studies and the submission of the learned counsel for the petitioners is disputed by the learned counsel appearing on behalf of the BPSC with reference to the entries in item nos. 16, 17 and 18 he submits that after item no. 10 in History of subjects Ancient Indian History Archaeology Indian Culture History Ancient History is indicative of the fact that the genus History does not include the other speciality of history not specifically enumerated in the advertisement like items nos.16, 17 and 18.

6. The petitioner no.1 has done his Ph.D degree and petitioner no.2 M. Phil degree from the Delhi University, Delhi. They applied for the post of Assistant Professor (History) although in the advertisement at item no. 33 Gandhian thought is mentioned as one of the subjects but petitioners have not not



applied against the said post Gandhian thought.

7. Advertisement for appointment of Assistant Professor of Gandhian thought which could have been more closure to the subject pursued by the petitioners

8. Learned counsel appearing on behalf of the petitioners has placed reliance on Annexure -9 where in similar facts situation the Apex Court has granted relief to the similarly circumstanced. The distinguishable features of the judgment in **Dinesh Chandra Varshney vs. the University of Delhi & Ors.** contained in Annexure-9 has been ignored by the petitioner. Firstly, the Apex Court was considering the facts situation where the expert opinion was interfered by the High Court in exercise which was deprecated by the Apex Court and on that analogy the decision of the respondents based on expert report cannot be faulted as High Court is not proper forum, it is not equipped with expertise to decide the issue involving the expert opinion. Secondly, in that case the issue was construction of the expression relevant subject and concerned subject. The petitioners have applied against subject History when there is specific subject enumerated as Gandhian thought and subject of the petitioner includes Gandhian thought which is indicative of the fact that against four posts of Gandhian post



petitioners could not apply and their eligibility could be decided within the parameters of the subject Gandhian thought which was relevant and the concerned subject for appointment of Assistant Professor in terms of Annexure-9.

9. In view of the above, the Court does not find any merit in the case and the same is dismissed.

(Anil Kumar Upadhyay, J)

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