

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8031 of 2018

1. Ram Sundar Choudhary and Ors Son of Late Sita Ram Choudhary, Resident of Village- Mojahidpur, P.S.- Siwan Muffasil, District- Siwan.
2. Chhabila Rawat, Son of Late Deodhari Rawan, Resident of Paunchmandir Siwan, P.S.- Siwan, District- Siwan.
3. Om Prakash Ram, Son of Late Ram Ram, Resident of Village- Sayan, P.S.- Hussainganj, District- Siwan.
4. Deonarain Prasad, Son of Late Daroga Rai, Resident of Village- Rampur Khoram, P.S.- Marawrah, District- Chhapra.
5. Sanjay Kumar Yadav, Son of Late Kapildeo Prasad, Resident of Village- Shastri Nagar, P.S.- Siwan Town, District- Siwan.
6. Munshidhar Yadav, Son of Ramchandra Yadav, Resident of Village- Dhanauti, P.S.- Hussainganj, District- Siwan.
7. Birendra Prasad Yadav, Son of Rangila Yadav, Resident of Village- Dumari, P.S.- G.B. Nagar, Tarwar, District- Siwan.
8. Dr. Musafir Sharma, Son of Late Kamal Sharma, Resident of Village- Salempur, P.S.- Siwan Muffasil, District- Siwan.
9. Pradeep Kumar Yadav, Son of Late Gorakh Prasad, Resident of Village- Tahire, P.S.- Siwan Muffasil, District- Siwan.
10. Dr. Kumari Anita, Daughter of Chandradeo Choudhary, Resident of Village- Dhanauti, P.S.- Dhanauti O.P., District- Siwan.
11. Awadh Kishore Prasadm, Son of Late Sita Ram Choudhary, Resident of Village- Majahidpur, P.S.- Siwan Muffasil, District- Siwan.
12. Upendra Kumar Singh, Son of Sri Ram Singh, Resident of Village- Ranuan, P.S.- Hussainganj, District- Siwan.
13. Ganesh Ram, Son of Late Deonath Ram, Resident of Village- Mahanagar, P.S.- Siwan, District- Siwan.
14. Md. Shad, Son of Md. Kabir, Resident of Village- Kagji Muhalla, Siwan, P.S.- Siwan Town, District- Siwan.
15. Saumitra Kumar, Son of Late Durga Prasad, Resident of House of Kaison Khan, Jai Prakash Nagar Near Aaj Daily Paper Office, P.S.- Siwan Town, District- Siwan.
16. Upendra Nath Yadav, Son of Late Deonarain Yadav, Resident of Village- Takipur, P.S.- Mahrajganj, District- Siwan.
17. Sanjay Kumar Dubey, Son of Late Ram Naresh Dubey, Resident of Village- Titra Bazar, P.S.- Mairawa, District- Siwan.
18. Meena Kumari, Daughter of Vikaramanath Singh, Resident of Village- Tulsi Nagar Kamla Bihar, P.S.- Siwan Sadar, District- Siwan.
19. Nutan Kumari, Daughter of Krishna Bhagat, Resident of Village- Nabiganj, P.S.- Barharia, District- Siwan.
20. Birendra Kumar Yadav, Son of Late Chandeshwar Prasad Yadav, Resident of Village- Makhdum Sarai, P.S.- Siwan, District- Siwan.



21. Indrajeet Chaudhary, Son of Vikarama Choudhary, Resident of Village- Bhada Khurd, P.S.- Siwan Muffasil, District- Siwan.
22. Asraf Ali Ansari, Son of Md. Manil Alam, Resident of Village- Musaffabad, P.S.- Goraye Kothi, District- Siwan.
23. Shashi Bhushan Prasad Yadav, Son of Late Hardeo Prasad Yadav, Resident of Village- Titra Bazar, P.S.- Mairaoon, District- Siwan.
24. Birbahadur Yadav, Son of Late Baidya Nath Yadav, Resident of Village- Siyari Karn, P.S.- Barhariya, District- Siwan.
25. Bharath Prasad, Son of Late Laxman Prasad, Resident of Village- Bagaura, P.S.- Daraunda, District- Siwan.
26. Ramjanam Prasad, Son of Late Bishundeo Rai, Resident of Village- Semraha, P.S.- Panapur, District- Chhapra.
27. Priya Ranjan, Son of Chandeshwari Prasad, Resident of Village- New Basti Mahdeva, P.S.- Siwan O.P., District- Siwan.
28. Isteyaque Ahmad, Son of Late Abdul Sattar, Resident of Ismayl Shehi Road Near Water Tank, P.S.- Siwan Town, District- Siwan.
29. Sheojee Prasad Yadav, Son of Abilakh Prasad Yadav, Resident of Village- Sidhwal, P.S.- Hussainganj, District- Siwan.
30. Rajendra Rai, Son of Kapildeo Rai, Resident of Village- Farda Piyan, P.S.- Masarakh, District- Chhapra.
31. Manoj Kumar Satyam, Son of Narsingh Prasad Yadav, Resident of Village- Muslimpur, Baniyapur, P.S.- Baniyapur, District- Chhapra.
32. Birendra Yadav, Son of Late Gopal Choudhary, Resident of Village- Kabilaswa, P.S.- Hathuwa, District- Gopalganj.
33. Ranvijay Kumar Singh, Son of Late Rameshwar Singh, Resident of Village- Surwale, P.S.- G.B. Nagar Tarwar, District- Siwan.
34. Md. Obaid Reyaz, Son of Late Md. Reyal Hasan, Resident of Village- Mahnar Bazar, Ward No. 12, P.S.- Mahrias, District- Vaishali.
35. Surendra Singh, Son of Sheopujan Singh, Resident of Village- Dumariya, P.S.- Gopalpur, District- Gopalpur.
36. Vinod Kumar Prasad, Son of Ramagya Prasad, Resident of Village- Sikandarpur, P.S.- G.B. Nagar, Terwa, District- Siwan.
37. Umesh Choudhary, Son of Sheoratan Choudhary, Resident of Village- Trilakepur, P.S.- Uchkagawn, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Jai Prakash University, Chhapra through its Registrar.
3. Vice Chancellor, Jai Prakash University, Chhapra.
4. Daroga Prasad Rai Degree College Siwan through its Convainor.
5. The Secretary, Governing Body, Daroga Prasad Rai Degree College, Siwan.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Pandey
For the Respondent/s : Mr.P.R. Singh
Mr. Shashi Shekhar Tiwary, AAG-15
For JPU : Mr. Nagendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 18-02-2020 Petitioners are aggrieved by refusal to grant recognition of their service by the Jai Prakash University.

2. From Annexure-1, it appears that the petitioners were appointed after following the selection process in the affiliated college after due advertisement, they were appointed in between 1986-2008.

3. Mr. Siya Ram Sahi, learned counsel appearing on behalf of the petitioners would submit that college was granted affiliated initially in 1986 by the Bihar State University, Muzaffarpur. Later on, by bifurcation the college was transferred to the territorial jurisdiction of Jai Prakash University.

4. Learned counsel for the petitioners with reference to Annexure-6 would submit that in affiliated college with the grant of affiliation up to intermediate level, one post is deemed to be sanctioned. The second post stands deemed sanctioned with the grant of approval in graduation (pass course) level and third post stands sanctioned with the grant of affiliation at



(Honours) level.

5. The rider of Section 35 of the Bihar State University Act applies only in case of financial liability, the college in question is not receiving deficit grant. The rider of Section 35 is not attracted as to creation of post with the prior approval of the State Government. In addition thereto, the letter of the State Government contained in Annexure-6 is settler on the point that on affiliation itself, the post stands sanctioned. Initially, the College Service Commission was in place for recommendation for appointment in affiliated colleges but the College Service Commission was subsequently repealed in 2007 and after repeal of the College Service Commission, the power to constituted Selection Committee and grant of approval of selection vests with the University. In the instant case duly constituted Selection Committee has scrutinized the case of the petitioners and thereafter recommended their case for approval by Jai Prakash University on 20.3.2017.

6. At this stage, finding fault with the appointment of the petitioners on the ground that the post was specifically sanctioned in 2008 i.e. subsequent to their initial appointment is totally misconceived particularly in view of the Annexure-6 dated 20.1.1979.



7. Considering the aforesaid, the writ petition is disposed of with a direction to the University to revisit the entire issues and consider the case of the petitioners at the touch stone of the Annexure-6 for the purpose of treating the post deemed sanctioned and accord approval to the appointment if the same has the concurrence of the duly constituted Selection Committee of the University.

8. Accordingly, Annexure-1 is quashed. The writ petition stands allowed and disposed of.

9. Necessary decision in this regard may be taken by the respondent University within a maximum period of three months from the date of receipt/production of a copy of this order.

(Anil Kumar Upadhyay, J)

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