

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23048 of 2019

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1. Arti Kumari, Daughter of Shri Sher Bahadur Prasad, Resident of Road No. 21, Rajiv Nagar, Keshari Nagar, Phulwaria, District-Patna, Pin Code-800024.
 2. Shailesh Kumar, Son of Shri Ramjee Prasad, Resident of O/111/1, Railway Quarter Loco Colony, Chakradharpur, Ajodhya, West Singhbhum, District-Jharkhand, Pin Code-833102.
 3. Bolendra Kumar Agam, Son of Shri Abhay Shankar Singh, Resident of Village-Darihat, Rohtas, District-Rohtas, Pin Code -821306.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Bihar, Patna.
3. Bihar Public Service Commission, Patna through its Secretary.
4. Chairman, Bihar Public Service Commission, Bihar, Patna.
5. Secretary, Bihar Public Service Commission, Bihar, Patna.
6. Jai Prakash University, Chapra through its Registrar.
7. Tilka Manjhi Bhagalpur University, Bhagalpur through its Registrar.
8. Vir Kunwar Singh University, Ara through its Registrar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Adv.
For the BPSC	:	Mr. Sanjay Pandey, Adv.
		Mr. Nishant Kr. Jha, Adv.
For the VKS University	:	Md. Kamaluddin, Adv.
For the State	:	Mr. Arvind Kumar, AC to GP-23

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 05-02-2020



Heard Mr. Abhinav Srivastava, learned Advocate for the petitioners, Mr. Sanjay Pandey, learned Advocate for the Bihar Public Service Commission, Mr. Arvind Kumar, learned Advocate for the State and Md. Kamaluddin, learned Advocate for the Vir Kunwar Singh University.

2. One Prasant Kumar had approached this Court *vide* C.W.J.C. No. 18186 of 2017, seeking a direction to the Bihar Public Service Commission (*in short the Commission*) and the Government for awarding him appropriate marks for the M.Phil. degree as non-awarding of marks on that count had resulted in preparation of a merit-list in which the petitioner's name did not find place. A Bench of this Court *vide* order dated 22.07.2019, on finding that aforesaid Prashant Kumar deserved four (4) marks for his having M.Phil. Degree, directed the Principal Secretary, Education, Govt. of Bihar, Patna to rectify the mistake, award such marks to which Mr. Prashant Kumar was entitled to and prepare a fresh/revised merit-list, but only after affording hearing to



such candidates who were in the merit-list and were appointed pursuant to such list prepared by the Commission.

3. Pursuant to the aforesaid order passed by this Court, four (4) marks were awarded to Mr. Prashant Kumar which found his entry in the revised merit-list at a position which was higher than the petitioners.

4. With such change in the revised merit-list with the induction of Mr. Prashant Kumar, petitioner No. 1 went out of the consideration zone for being appointed as Assistant Professor in the discipline of Geography. The other petitioners also were put to the risk of being sent to other Universities because the allocation of candidates to various Universities is dependent on their respective marks/rank obtained by them as also their choice.

5. The petitioners have approached this Court but without any objection to the order passed by the Bench of this Court which has resulted in the induction of aforesaid Prashant Kumar in the revised merit-list.

6. What has been argued before this Court is



that when the order of this Court for correcting the mistake with respect to Mr. Prashant Kumar was being followed by the Government, the order had to be followed in its entirety, which also obligated the State to put the petitioners to notice before any final order was passed. No doubt, the State, in the Department of Education, was under an obligation to advise the Commission for necessary correction in the merit-list by including Prashant Kumar after awarding him the marks to which he was entitled, but if it caused any disadvantage to the other persons who had already been appointed in different colleges in different Universities, they were required to be noticed

7. The petitioner have not been heard.

8. Additionally, learned counsel for the petitioners has submitted that in the colleges of the Universities in which the petitioners were posted in the beginning and are still rendering their services and in other Universities also, posts are vacant and, therefore, instead of showing the petitioner No. 1 the door, it would



be more prudent to consider her candidature for being accommodated against any vacant position in any one of the Universities. Similar prayer has been made with respect to the petitioners No. 2 and 3, who also request to be considered for being retained in the same college or University, if there is any vacancy.

9. In such circumstances, this Court considers that it would be appropriate to direct that in case petitioners make a suitable representation before the Additional Chief Secretary, Education within a period of two weeks, the same shall be considered in a holistic manner and in correct perspective, taking into account that the petitioners had been declared successful and were posted pursuant to the merit-list prepared and published by the Commission and that not because of their fault, a revised merit-list had to be prepared. The Additional Chief Secretary shall also take into account that there are vacant positions and if the petitioners are accommodated against such vacant positions, the University education would remain uninterrupted. The



decision be taken within a period of six weeks of the receipt of the representation and such decision be communicated to the petitioners forthwith.

10. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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