

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8041 of 2021

Pratyush Kumar S/o Parmeshwar Shukla R/o Shri Hari Charanam in front of Govt. Girls Middle School, Mahuabag, P.O. - Sahay Nagar, P.S. Rupaspur, District- Patna, Pin - 801506.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Higher Education, Ministry of Human Resource Development, New Delhi - 800001.
2. NITI Aayog (National Institute for Transforming India) Government of India through its Chairperson, South Block, Secretariat Building Raisina Hill, New Delhi.
3. The University Grant Commission through its Chairman, Bahadur Shah Zafar Marg, New Delhi - 110002.
4. The Chancellor of the Universities of Bihar, Raj Bhawan, Patna through its Officer on Special Duty, Raj Bhawan, Patna.
5. The State of Bihar through the Chief Secretary, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna - 800015.
6. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna - 800015.
7. The Director, Higher Education, Government of Bihar, New Secretariat, Vikas Bhawan, Baily Road, Patna - 800015.
8. The Bihar State University Service Commission, Patna through its Chairman, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna - 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Brijnandan, Advocate Mr. Ranjana Kumari, Advocate
For the Respondent/s	:	Mr. (Dr.) K. N. Singh, ASG Mr. Rajendra Kumar Giri, Advocate Mr. Pawan Kumar Chaudhary, Advocates Mr. Kumar Sachin, Advocate Mr. Pradeep Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)



(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 16-07-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“ (i) For issuance of an order (s) direction (s) or appropriate writ(s) for setting aside the First Proviso and Second Proviso to Regulation 3.3 (I) of the UGC Regulations on Minimum Qualifications for appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 (in short, UGC Regulations, 2018) and the identical provisions contained in Regulation 4.1 (1) (A) (ii) of the UGC Regulations, 2018 by which the Ph.D. candidates have been exempted from the mandatory requirement of passing National Eligibility Test (NET) / State Level Eligibility Test (SLET/SET) for recruitment and appointment of Assistant Professor in Universities and Colleges and for further direction/ order that only National Eligibility Test (NET) / State Level Eligibility Test (SLET/SET) qualified candidates be treated as eligible for recruitment and appointment of Assistant Professor in Universities and Colleges. And/or



(ii) For issuance of further order (s) / direction (s) or appropriate writ(s) for setting aside the prescribed procedure for recruitment to the posts of Assistant to Professor contained in Note appended to Regulation 4.1 (1) of the UGC Regulations, 2018 which reads as "Note: The Academic score as specified in Appendix II (Table 3A) for Universities, and Appendix II (Table 3B) for Colleges, shall be considered for short-listing of the the candidates for interview only, and the the selections shall be based only on the performance in the interview." inasmuch as the aforesaid Regulation entrenches upon the the autonomy of the University's right to select Assistant Professors. It is submitted that the UGC Act, 1956 did not confer upon the UGC the power of selection of teachers. The power to appoint includes the power to select and the power to select includes the power to choose the method and manner of selection. By Note appended to Regulation 4.1 (I) of the UGC Regulations, 2018 along with Table 3A and Table 3B of UGC Regulations, 2018 the University Grants Commission has usurped a part of the power of appointment vested with the Universities and as such the same is in contravention of the UGC Act, 1956 itself. And/or

(iii) For issuance of further order (s) / direction (s) or (ii) appropriate writ(s) for setting aside the criteria for short listing of candidates for Interview for the post of



Assistant Professors in Universities as prescribed in Table: 3A of UGC Regulations, 2018 and also the criteria for short - listing of candidates for Interview for the post of Assistant Professors in Colleges as prescribed in Table: 3B of UGC Regulations, 2018 for being violative of principles enshrined in Articles 14 and 16 of the Constitution of India. And/or.

(iv) For issuance of further order (s) / direction (s) or appropriate writ(s) for directing the Bihar State University Service Commission to conduct rigorous and exhaustive written examination in the concerned subjects pursuant to the Advertisement dated 21.09.2020 so as to assess the in-depth knowledge and understanding of the subjects with a View to ascertain the comparative merits of the eligible NET/ SLET/ SET qualified candidates and thereafter publish the final merit list of 4638 Assistant Professors on the basis of performance in the aforesaid written examination and interview thereby securing the larger public interest of selection of the most meritorious among candidates as Assistant Professors to teach in Institutions governed by the UGC Act, 1956. And/or

(v) For issuance of further order (s) / direction (s) or the Central appropriate writ(s) for directing the Central Government to conduct a national level rigorous and exhaustive written examination of National Eligibility Test (NET)/ State Level Eligibility Test (SLET/SET)



qualified candidates only in the concerned subjects so as to assess their in-depth knowledge and understanding of the subjects with a view to ascertain the comparative merits of the eligible candidates and further make it mandatory that only those candidates shall be called for Interview for the purpose of recruitment and appointment as Assistant Professors in Universities and Colleges in India who qualify in the aforesaid national level rigorous and exhaustive written examination. The task of conducting this national level rigorous and exhaustive written examination may be handed over to the National Testing Agency or National Recruitment Agency or any other Central Agency specially created for the said purpose. And/or

(vi) For issuance of further order (s) / direction (s) or appropriate writ(s) for Issuance of further order for (s)direction (s) or appropriate writ(s) for quashing Statutes for appointment of Assistant Professor for the Universities of Bihar - 2020 and by the advertisement dated 21.09.2020 issued by Bihar State University Service Commission and also for directing the Bihar State University the Service Commission not to proceed with the process of appointment on the post of Assistant Professor commenced Vide advertisement dated 21.09.2020 until final disposal of this Writ Petition. And/or

(vii) Pass such other order / orders



which may appear fit and proper in the facts and circumstances of the instant case.

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned to consider and decide the representation which the petitioner shall be filing within a period of four weeks from today highlighting the issue, subject matter of the present petition.

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking



order preferably within a period of three months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action;

(g) We have not expressed any opinion on merits. All issues are left open;

(h) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to



meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/PKP/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

