

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7278 of 2021

1. Arun Kumar Yadav son of Kusheshwar Prasad Yadav Ward No 2, Sabaila, P.S. Saurbazar, Dist- Saharsa.
2. Baidyanath Yadav son of Deo Narayan Yadav Ward No 4, East of Electricity Office, P.S. and Dist- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Principal Secretary, Department of Education, Government of Bihar, Patna.
3. Secretary Education, Government of Bihar, Patna.
4. Director, Higher Education, Government of Bihar, Patna.
5. B.N. Mandal University, Laloo Nagar, Madhepura through its Registrar.
6. Vice Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura.
7. Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.
8. Lalan Pd Adri son of not known Teacher Department of Ancient Indian History and Culture, Parwati Science College, Kirti Nagar, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Binodanand Mishra, Advocate

For the Respondent/s : Mr. P. K. Shahi, AAG 6
Mr. Ritesh Kumar, Advocate
Mr. J. K. Roy, Advocate

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

Date : 23-08-2021

Heard learned counsel for the parties.

Petitioners have prayed for following relief:

“ For issuance of a writ of quo warranto holding
and declaring that the appointment of respondent no.8 as a
lecturer in the Subject Ancient Indian History and Culture in

Parwati Science College, Madhepura (herein after College) and his subsequent promotion to the post of Reader and University Professor is nonest in law. He is a usurper and is not entitled to hold the post. His appointment and promotion is fit to be quashed. The petitioners also pray for any other relief (s) which may be granted in the facts and circumstances of the present case.”

Counter affidavit has been filed by the University in which, a preliminary objection has been raised regarding maintainability of present public interest litigation in service matter. In public interest litigation petition, writ of *quo warranto* can be issued by High Court against persons who are usurper of the office and are not eligible to hold the office. However, in present case, petitioners have challenged the appointment of respondent no.8 as a lecturer in the subject Ancient Indian History and Culture although Justice Agarwal Commission and Justice S. B. Sinha Commission have held respondent no.8 eligible for appointment w.e.f. 31.3.1990 and report of both the Commissions, have been accepted by the Hon’ble Supreme Court and all the objections to the report were rejected.

It has lastly been stated that enquiry commission

constituted by Hon'ble Supreme Court after detailed hearing, had observed in respect of respondent no.8 that he should be treated to have been appointed on 21.3.1990 when he obtained his Master's degree in Ancient Indian History and has approved his absorption.

The present PIL is misconceived and is not maintainable and is, accordingly, dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/-Rajiv

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.11.2021
Transmission Date	NA