

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1529 of 2021

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1. Rakesh Kumar Rajak, Male, aged about 33 years, son of Shivpujan Baitha, resident of 167, Shankar Saraya Munsii Inar Turkaulia, P.O.+P.S.- Shankar Saraya, District- Motihari, Pin Code-845437
 2. Rashmi Raj, Female, aged about 26 years, daughter of Ram Pravesh Singh, resident of Village+P.O.+P.S.-Aungari, District- Nalanda, Pin Code-801301
 3. Pooja, Female, aged about 31 years, wife of Sidharth Shankar Raju, resident of Village+P.O.+P.S -Kasraund, District- Darbhanga, Pin Code-847427
 4. Sidharth Shankar Raju, Male, aged about 39 years, son of Bishwamohan Jha, resident of Village-Ghanshyampur, P.O.+P.S -Kasraund, District- Darbhanga, Pin Code-847427

..... Petitioners

-Versus-

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Bihar, Patna
3. Chancellor of Universities of Bihar, Baidyabati, Patna
4. Bihar State Universities Service Commission, Patna through its Secretary
5. Chairman, Bihar State Universities Service Commission, Patna
6. Secretary, Bihar State Universities Service Commission, Patna

..... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhinav Shrivastava, Advocate
For the Respondent/s : Mr. Pawan Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(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 : 30-04-2021

Petitioners have prayed for the following relief(s):

“(i) Issuance of declaration holding that the amendments as contained in a notification dated 29/08/2020 bearing memo no.BSU(Statutes)25/2014-1866/GS(I) issued by the concerned authorities under the Governor's Secretariat, Bihar, Patna, by which an amendment has been brought about, by which the provisions contained under serial no. 3 of Table-1 of the Statutes for Appointment as Assistant Professors in the Universities of Bihar 2020 as contained in the notification dated 10/08/2020 bearing memo no. BSU(Statutes)-25/2014-1472/GS(I) issued from the Governor's Secretariat, Bihar, Patna, providing for awarding marks in favour of candidates possessing M.Phil. qualification has been deleted is ultra vires of the Constitution of India the same being in blatant disregard and violation of articles 14 & 16 of the Constitution of India:

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities to take steps towards awarding marks in favour of candidates possessing M.Phil.



qualification in accordance with the provisions contained under the Statutes for the appointment as Assistant Professors in Universities of Bihar 2020 as contained in the notification dated 10/08/2020 bearing memo no. BSU (Statutes)- 25/2014-1472/GS(I) issued from the Governor's Secretariat, Bihar, Patna;

(iii) Issuance of a direction, order or writ, including writ in the nature of certiorari commanding the concerned authorities under the Bihar State Universities Service Commission, Patna (hereinafter referred to as "the Commission") to bring about necessary modification in the advertisement dated 21/09/2020 issued by the Commission and candidates possessing M.Phil. qualification while considering their cases for appointment against the post of Assistant Professors in different subjects in the Universities within the State of Bihar;

(iv) Issuance of a declaration holding that the present petitioners and other similarly situated candidates who possess the qualification of M.Phil. in the relevant subjects are entitled for award of marks in DOC accordance with the provisions contained under Statutes for the appointment as Assistant Professors in



Universities of Bihar, 2020 as contained in the notification dated 10/08/2020 bearing memo no. BSU(Statutes)-25/2014-1472/GS(I) issued from the Governor's Secretariat, Bihar, Patna which is in terms of the provisions contained under the regulations issued by the concerned authorities under the University Grants Commission, New Delhi.

(v) Any other relief/reliefs that the petitioners may be found to be entitled to in the facts and circumstances of the present case”

It is not in dispute that the petitioners are otherwise eligible and can participate in the selection process in terms of advertisement dated 21.09.2020 [Annexure-9].

Petitioners lay challenge to the amendment dated 29th of August, 2020 brought in by the Respondent No.6, namely Secretary, Bihar State Universities Service Commission, vide Annexure-8 whereby the provisions for award of certain marks for candidates possessing M.Phil. Degree stand deleted.

After the matter was heard for some time, Shri Abhinav Shrivastava, learned counsel appearing for the petitioners, under instructions, states that petitioners be granted liberty to approach Respondent No. 3, namely the



Chancellor of Universities of Bihar, Raj Bhawan, Patna, venting out the grievances made out in the present petition.

We are inclined to accept such prayer and, as such, as prayed for, dispose of the present petition in the following mutually agreeable terms:-

(a) Petitioners shall approach the appropriate authority, including Respondent No. 3, namely, Chancellor of Universities of Bihar, Raj Bhawan, Patna, venting out the grievances.

(b) As and when any such request is received, the same shall be considered and decided in accordance with law, expeditiously and preferably within a period of eight weeks thereafter.

(c) The process of appointment and selection in terms of Advertisement dated 21.09.2020 [Annexure-9] shall continue in terms of the existing statutory provisions, unless, of course, it stands interdicted, in the legislative wisdom of the appropriate authorities.

(d) We have not expressed any opinion on merits.

(e) All questions are left open.

(f) Liberty reserved to the petitioners to approach the Court afresh on the same and subsequent cause of action,



if the need so arises. The petition as and when filed shall be taken up on priority basis.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.04.2021
Transmission Date	

