

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2898 of 2021

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1. Niraj Kumar, Gender- Male, Aged about 32 Years, Son of Ram Suresh Rai, Resident of Ward No.05, Nagar Panchayat Teghra, Post Office- Teghra, Police-Station- Teghra, District- Begusarai, Pin Code-851133.
 2. Kundam Kumar, Gender- Male, Aged about- 32 Years, Son of Narendra Singh, VIP Lane, Mela Road, Block- Makhdumpur, Panchayat- Naviganj, Tehta, District- Jehanabad, Bihar- 804427
 3. Pritam Kumar Gupta, Gender- Male, Aged about- 35 Years, Son of Ram Yash Bhagat, 255, Munirka Village, JNU, South West Delhi, Delhi- 110067.
 4. Anand Gupta, Gender- Male, Aged about -32 Years, Son of- Ratan Lal Gupta, Lohiya Nagar, Nagar Palika Parishad, Mahrajganj, Uttar Pradesh-273303.
 5. Sarvjeet Yadav, Gender- Male, Aged about- 35 Years, Son of Saltu Yadav, Village- Kanaitha, PO- Faridpur, District- Azamgarh, Uttar Pradesh- 223227.
 6. Javed Charan, Gender- Male, Aged about 29 Years, Son of Nayak Ram, Shastri Nagar, Ward No.-27, Ratangarh, Churu, Rajsthan-331022.
 7. Avaneesh Maurya, Gender- Male, Aged about- 33 Years, Care of Subelal Maurya, 61 Padampur, P.O.- Sadar, Jaunpur, District- Jaunpur, Uttar Pradesh- 222001.
 8. Shailesh Kumar, Gender- Male, Aged about- 31 Years, Son of Ram Lal, Paithan Toli, Sasaram, Rohtas, Bihar- 821115.
 9. Upendra Kumar, Gender- Male, Aged about- 38 Years, Son of Tilak Sao, Kumaharua, Rajauli, Nawada, Bihar- 805125.
 10. Rakesh Kumar Pankaj, Gender- Male, Aged about- 25 Years, Son of Janeshwar Prasad Mehta, Pawal, Aurangabad, Bihar- 824102.
 11. Amit Kumar, Gender- Male, Aged about- 32 Years, Son of Bipin Kumar, Mahsaura, Lakhisarai, Bihar- 811107.
 12. Sonu Kumar Gupta, Gender- Male, Aged about- 38 Years, Son of Shashi Bhushan Prasad, Bibipur, Garkha, Saran- 841311.
 13. Neelam Jhavar, Gender- Female, Aged about-30 Years, Daughter of Gopi Kishan Jhavar, Netaji, Pally, Islampur, West Bengal-733202.
 14. Rakesh Ranjan, Gender- Male, Aged about-42 Years, Son of Jageshwat Prasad, Village- Toy Bihja, Shekhpura, Bihar-811101.
 15. Md. Masoom Alam, Gender- Male, Aged about-30 Years, Son of Abdul Razzaque, H.No.- 32, Mohlidih, P.O.- Bhuli, District- Dhanbad, Jharkand- 828104.



16. Rajesh Kumar Gupta, Gender- Male, Aged about-32 Years,
Son of – Chandeshwar Gupta, Bari Khagaul, Dih, Devi Asthan,
Chakardahaha, Khagaul, Ward No.- 16, Dinapur-Cum-Khagaul,
Patna, Bihar-801105.

..... Petitioners

-Versus-

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Chancellor of Universities of Bihar, Raj Bhawan, Patna.
4. The Chairman, Bihar State University Service Commission, B.S.E.B Academic Building, 8th Floor, Buddh Marg, Patna 800 001.
5. The Joint Secretary-cum-Examination Controller, Bihar State University Service Commission, B.S.E.B Academic Building, 8th Floor, Buddh Marg, Patna 800 001.
6. The Secretary, Bihar State University Service Commission, B.S.E.B Academic Building, 8th Floor, Buddh Marg, Patna 800 001.
7. University Grants Commission, Bahadur Shah Zafar Marg, New Delhi through Its Secretary.
8. Chairman, University Grants Commission, Bahadur Shah Zafar Marg, New Delhi.

..... Respondents

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Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Advocate
For the Respondent/s : Mr. Parijat Saurav, AC to AAG 10

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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 For issuance of a writ of Declaration, to declare the amendment made vide Memo No. BSU (Statute) 25/2014- 1855/GS (1) dated 29.08.2020 in the "Statutes for Appointment as Assistant Professor in the Universities of Bihar- 2020" to the extent whereby score of M. Phil degree mentioned at serial no.3 in the Table of the "Statutes for Appointment as Assistant Professor in the Universities of Bihar- 2020" has been deleted, as ultra vires the Articles 14, 16 of the Constitution of India and declare illegal and null and void.

II. For issuance of a writ in the nature of writ of certiorari or any other appropriate writ, order or direction quashing the Clause 7.2 of the advertisement dated 21.09.2020 for appointment of Assistant Professor in the Universities of Bihar wherein M. Phil degree was not included in the criteria fixed for academic record in the selection process.

III. For issuance of a writ in the nature of writ of mandamus or any other appropriate writ, order or direction commanding the respondents to include the M. Phil degree in the criteria fixed for academic record in the selection process in the "Statutes for Appointment as Assistant Professor



in the Universities of Bihar- 2020" and the advertisement.

IV. For any other relief or reliefs for which the petitioner is entitled in the facts and circumstances of the 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-5].

Petitioners lay challenge to the amendment dated 29th of August, 2020 brought in by the Respondent No.6, namely The Secretary, Bihar State Universities Service Commission, vide Annexure-2 whereby the provisions for award of certain marks for candidates possessing M.Phil. Degree stand deleted.

After the matter was heard for some time, 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, The 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-5] 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	

