

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18486 of 2019

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Kumar Devesh, Son of Sri Gajendra Prasad Singh, Resident of Mohalla- Sahi Colony, House No. 25, Tapowan, Road No.2, P.O.- Hajipur, P.S.- Hajipur Nagar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
4. The Bihar Public Service Commission, through its Chairman.
5. The Chairman, Bihar Public Service Commission.
6. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, Patna.
7. The Registrar, B.N. Mandal University, Madhepura, District- Madhepura.
8. Binita Srivastav D/o Govindlal, Resident of Village and P.O.- Dih, P.S.- Baldirai, District- Sultanpur, State- Uttar Pradesh.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s	:	Mr. Subash Chandra Mishra (SC-16) Mr. AC to SC-16
For the BPSC	:	Mr. Ratnesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 24-02-2021

Heard Mr. Tej Bahadur Singh, learned senior counsel for the petitioner, Mr. Ratnesh Kumar Singh, learned counsel for the BPSC and Mr. AC to SC-16.

2. The petitioner is aggrieved by the final result published on 21.08.2019.



3. Mr. Tej Bahadur Singh, learned senior counsel for the petitioner, with reference to materials available on record, submits that the petitioner was recommended as the last candidate for appointment on the post of Lecturer/Assistant Professor and after publication of result respondents have modified the earlier result published on 25.05.2019 by issuing subsequent result dated 21.08.2019. Mr. Singh has vehemently argued that the Bihar Public Service Commission become functus officio after recommendation and, therefore, the Commission is not justified in modifying the result. However, he does not dispute the fact that the person, who has been included in place of the petitioner i.e. respondent no.8 is better in merit position as per the marks obtained in the selection process. His grievance is that the petitioner was not heard before altering the position of the petitioner by the BPSC.

4. To err is human and to rectify the mistake is a bliss. If the error committed by the BPSC, it is well within competence of the BPSC to rectify the mistake as the Commission is not only obliged to do justice to this petitioner but all the candidates, who participated in the selection process and if for doing justice the BPSC has rectified the mistake and included respondent no.8 in



order of merit above the petitioner in the modified result dated 21.08.2019 one cannot find fault with the action of the BPSC.

5. Procedural safeguard is to ensure fairness in the decision making process. The principles of natural justice is not unruly horse and principles of natural justice depends on facts and circumstances of each case. It is now well settled proposition of law that the Court should not unnecessarily deal with the issue of violation of principles of natural justice, if the party cannot improve their cases by providing opportunity of hearing. The principles in this regard had been discussed in various cases including the **Canara Bank Vs. V. K. Awasthy**, reported in (2005) 6 SCC 487 where the Hon'ble Supreme Court discussed the useless formality theory. In the present case, grievance is that the petitioner was not heard before altering the earlier result published on 25.05.2019. The position of petitioner is not going to be improved by providing hearing for the simple reason that the petitioner cannot claim better merit position than the respondent no.8, who has been included in the select list by way of revised result dated 21.08.2019. However equity demands that in the event, there is any vacancy available, the Commission may consider the desirability to accommodate the petitioner against the



available post without disturbing respondent no.8 for appointment
as Lecturer/Assistant Professor.

6. With the aforesaid, the writ application stands
disposed of.

(Anil Kumar Upadhyay, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.03.2021
Transmission Date	NA

