

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 432 of 2022

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Surya Kumar Singh Son of Late Bindeshwari Singh permanent resident of
Village and P.O.- Ariaon, P.S.- Krishna Brahm, District- Buxar, Bihar- 802119

... .. Petitioner/s

Versus

1. The Honble Chancellor of Universities, Bihar through the Secretary, Governor s Secretariat, Raj Bhawan, Patna- 800022.
2. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna- 800015.
3. The Additional Chief Secretary, Education Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna- 800015.
4. The Aryabhatta Knowledge University, Mithapur, Patna- 800001, through the Registrar, Aryabhatta Knowledge University, Mithapur, Patna- 800001.
5. The Vice- Chancellor, Aryabhatta Knowledge University, Mithapur, Patna- 800001.
6. The Registrar, Aryabhatta Knowledge University, Mithapur, Patna- 800001.
7. Deepankar Shree Gyan son of Dr. Onkar Prasad Jaiswal, resident of 6, Maitrai Shanti Bhawan, B.M. Das Road, P.O.- Bankipore, P.S.- Pirbahore, District- Patna- 800004, presently posted as Assistant Registrar, Aryabhatta Knowledge University, Mithapur, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the Respondent/s	:	Mr.Smt. Shilpa Singh (Ga12)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 13-01-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

“ i) For issuance of an appropriate writ in
the nature of mandamus or any other

appropriate writ, such as a writ of quo warrant, or order or direction to the Respondent No. 5, the Vice-Chancellor of Aryabhatta Knowledge University, Patna, for setting aside the impugned notification Ref. No. oo3/ADMN/ 357/133/AKU/2013, dated 08.10.2016, Annexure-P/2, whereby and where under the Respondent No. 7, viz. Deepankar Shree Gyan, was appointed to the post of Assistant Registrar on the ground that he did not possess and satisfy the eligibility criteria regarding the minimum experience required for the post, that is Three years of experience as Section Officer/Superintendent in Central/ State five University Offices, or five years of experience as Assistant Professor/ Lecturer in a College or a University or an Autonomous Institution with experience in educational administration, as he has mentioned in his application that he was working in a newspaper company, viz. "The Searchlight Publication Housing Ltd., Patna", as a HR Manager (without mentioning the pay scale and grade pay of the post of HR Manager) from 01.06.2001 to 31.05.2008 notwithstanding the fact that a newspaper company. via. "The Searchlight, Patna, India" was inoperative with effect from the date of its shut down on

August 3, 1986 by its management. Further, he has not brought on record the details of his employment, if any, on and from the date 31.05.2008 to the last date 10.09.2011 of submission of his application for selection and appointment on the post of Assistant Registrar, Aryabhatta Knowledge University. His appointment on the post of Assistant Registrar, Aryabhatta Knowledge University, is, therefore, prima-facie ab initio illegal, null and void, being in violation of the provisions of the statute and settled principles of law. *[Supreme Court I.A. No. 5-8 in Civil Appeal Nos. 8343-8343 of 2011, arising out of SLP (C) No. 20152-20153 of 012010]*.

II) For issuance of an appropriate writ, order or direction to the Respondent No. 5, the Vice-Chancellor and the Respondent No. 6, the Registrar of Aryabhatta Knowledge University, Patna, for recovery of the salary paid by the University to the Respondent No. 7 during the period from his date of joining (09.10.2013) onwards, on the ground that his appointment is prima-facie illegal, null and void, and also against the settled principles of law.

iii) For issuance of an appropriate writ in the nature of mandamus or any order or direction to the Respondent No. 5, the Vice-

Chancellor, and the Respondent No. 6, the Registrar, Aryabhatta Knowledge University, Patna, to withdraw all works from the Respondent No. 7 during the pendency of this writ petition as his appointment is prima-facie ab initio illegal, null and void, and also against the settled principles of law.

iv) Any other relief or reliefs which may be deemed fit and proper by the Hon'ble Court in the facts and circumstances of the case.”

After the matter was heard for some time, learned counsel for the petitioners, under instructions, states that petitioners shall be content if a direction is issued to the authority concerned, i.e., **respondent no.1, The Hon'ble Chancellor of Universities, Bihar through the Secretary, Governor's Secretariat, Raj Bhawan, Patna- 800022** or any of the statutory authority to consider and decide the representation which the petitioners shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioners, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four 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) Petitioners 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 four 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 petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioners take 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 petitioners to approach the

Court, if the need so arises subsequently on the same and subsequent cause of action;

(g) Liberty also reserved to the petitioners to make a mention for listing of the petition on priority basis. As and when any such mention is made, Registry shall take steps for listing the petition at the earliest.

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

(i) 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)

Veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	