

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.825 of 2022

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Sandeep Kumar Son of Shailendra Kumar Thakur Resident of Jagdamba Colony, East of R.N. College, Yusufpur, P.S. Hajipur, District-Vaishali at Hajipur, Presently Working as Upper Division Clerk, Raj Narayan College, Hajipur, District-Vaishali at Hajipur.

... .. Petitioner

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 Director Higher Education, Education Department, Government of Bihar, Patna.
4. The Vice Chancellor B.R.A. Bihar University, Muzaffarpur.
5. The Registrar, B.R.A. Bihar University, Muzaffarpur.
6. The Finance Officer, B.R.A. Bihar University, Muzaffarpur.
7. The Principal, Raj Narayan College, Hajipur, District-Vaishali at Hajipur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar Singh, Advocate
For the Respondent/s : Mr.Jitendra Kr. Roy 1, (Sc13)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 08-03-2022

Learned counsel for the petitioner byway of this writ petition has prayed for the following relief:-

(i) For issuance of an appropriate writ in the nature of Mandamus, commanding and directing the Respondent Authorities to grant promotion to the petitioner against the sanctioned and vacant post of Librarian of Raj Narain College, Hajipur(hereinafter referred to as College) since the date of his officiating i.e. 22.10.2008 on the ground that the petitioner has



the qualification of Master of Library & Information Science as also the petitioner has the qualification of Post Graduate and Certificate in Information Technology and the petitioner is discharging the duties of Librarian in the College since 22.10.2008 against the sanctioned and vacant post.

(ii) For issuance of an appropriate writ in the nature of Mandamus, commanding and directing the Respondent Authorities to grant consequential monetary benefits to the petitioner to the post of Librarian since the date of his officiating i.e. 22.10.2008.

(iii) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.

Admittedly, there is no exercise being conducted for promotion in the University even there is vacant post, no person has absolutely indefeasible right to be promoted. Right is only available for consideration of promotion. However, any mandamus directing the respondents to grant promotion to the petitioner on a vacant post cannot be issued as it would amount to promoting the petitioner directly even though the exercising of promotion is not being done. In the Constitution Bench



judgment of the Supreme Court in the case of **Shankarsan Das Vrs. Union of India reported in (1991) 3 SCC 47** wherein the Apex Court has held that the State has absolute right to fill up post or not to fill up. Decisions has to be taken at their own level even though the post is lying vacant, no mandamus can be issued to fill the post.

The writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.03.2022
Transmission Date	NA

