

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4493 of 2021

Dr. Satyendra Kumar Son of Late Hariram Panjiyara, at present residing at Boyds Patho Lab, Ghuran Peer Baba Chowk, Chhoti Khanjarpur, P.O. - Barari, P.S. - Barari, District - Bhagalpur Pin - 812001, Mob. 9431220188, email - drsatyendra2010@gmail.com

... .. Petitioner/s

Versus

1. The State of Bihar (through the Principal Secretary, Department of Health, Govt. of Bihar, Patna).
2. Additional Secretary Department of Health, Govt. of Bihar, Patna.
3. The Principal Jawaharlal Nehru Medical College, Bhagalpur, Sukhraj Rai Path, Nawlakkha Kothi, Bhagalpur, Pin - 812001.
4. Dr. (Prof) Ravikant Mishra Son of Not known, Patho Lab, Kachahri Chowk, P.S. - Ishakchak Pin- 812001.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Respondent/s : Mr. Rajeshwar Singh, GA 10

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 24-01-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“That this is an application for issuance of a writ in the nature of Certiorari for quashing the office order as contained in Memo No. 6344 and memo no. 1152(17) dated 16.12.2020 and 14.12.2020 respectively as contained in Annexures – 1&2, issued under the signature of Principal Jawahar Lal Medical College, Bhagalpur hereinafter referred as JLMC whereunder and whereby respondent no. 4 has been designated as Head of the Department in the Pathology at place of the petitioner. The aforesaid letter as



contained in Annexure-1 has been issued in pursuance to the letter dated 14.12.2020 (Annexure -2) issued under the signature of Additional Secretary, Department of Health, Govt. of Bihar by which the restrictions which was imposed earlier that the contractual teacher cannot be allowed to work as Head of the Department has been removed. And on quashing of the letters the respondent be directed to appoint the petitioner as Head of the department of Pathology in JLMC, Bhagalpur.”

3. On 08.12.2021, following order was passed.

“Heard learned counsel for the respective parties.

Learned counsel for the petitioner is hereby directed to produce copy of the method of recruitment to the post of head of department which is subject matter of the present litigation before the next date of hearing, failing which petition shall be dismissed.

List this matter on 22.12.2021.”

4. The petitioner by means of supplementary affidavit furnished Rules of Recruitment called “Senior Resident/Tutor and Bihar Medical Education Service Recruitment, Appointment and Promotion Rules, 2008 notified on 10.10.2008 (Annexure 8).

5. Perusal of the same, it is evident that there is no post of Head of the Department. In the absence of creation of the Head of the Department under Rules, 2008 cited *supra* or Executive Order issued by the State of Bihar, petitioner has no right to claim over the post of Head of the Department. Accordingly, petitioner has not made out a case, hence, writ petition stands dismissed, reserving liberty to the petitioner to approach the concerned



respondent in the event of any existing Executive Order governing the post of Head of the Department by making a detailed representation with reference to such Executive Order.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	27.01.2022
Transmission Date	

