

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13069 of 2015

1. Dr. Dilip Kumar, Son of Sri Ganauri Prasad Yadav, Moh. - Narayan Nagar, P.O. - Buniyad Ganj, P.S. - Mufassil, District - Gaya.
2. Dr. Birendra Singh, Son of Sri Ramdeo Singh, Vill. - Dunkabigha, P.O. - Kamta, P.S. - Parasi, District - Arwal.
3. Dr. Kumar Satyendra Satyarthi, Son of Sri Ram Prasad Yadav, Moh. - Hanuman Nagar, Road No. 06, P.O. P.S. - Rampur, District - Gaya.
4. Dr. Meena Kumari, W/o Kumar Satyendra Satyarthi Moh. - Hanuman Nagar, Road No. - 06, P.O. P.S. - Rampur, District - Gaya.
5. Dr. Sachidanand Kumar, S/o Sri Rajaram Singh, At - Mahesh Parasi, P.O. - Gorkati, P.S. - Uphasa, District - Aurangabad.
6. Dr. md. Shoaib Uddin, S/o Badurddin, Vill. - Abgila, P.O. - Buniyad Ganj, P.S. - Mofassil, District - Gaya.
7. Dr. Nand Kishor Prasad, S/o Sri Budho Prasad, Vill. - Mundipur, P.O. P.S. - Wazirganj, District - Gaya.
8. Dr. saroj Kumar, Son of Sri Rampukar Yadav, Vill. - Chandraheta, P.O. - Kerap, P.S. - Rafiganj, District - Aurangabad.
9. Dr. Jitendra Kumar Pankaj Son of Shri Sahdev Singh, At - P.N.B. Colony Mustafabad Gaya, P.O. P.S. - Rampur, District - Gaya.
10. Dr. Anil Kumar, Sonof Bisheshwar Singh, At - Narayan Nagar, P.O. - Buniadganj, District - Gaya.
11. Dr. Niranjan Prasad, Son of Kameshwar Prasad, Village - Palaki, P.O. - Aati, District - Gaya.
12. Dr. Geeta Kumari, W/o Sri Arbind Kumar, Village and Post - Kochi, P.s. - Guraru, District - Gaya.
13. Dr. Upendra Kumar, son of Sri Tulsi Choudhary, village - Travan, P.S. - Wazirganj, District - Gaya.
14. Dr. Mithlesh Kumar Singh, Son of Sahbir Singh, Moh. - Tanakuppa, P.S. - Buniadganj, District - Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Education Department, Govt. of Bihar, Patna.
3. The Bihar Public Service Commission, through its chairman, 15, Bailey Road, Patna - 800001.
4. The Secretary, Bihar Public Service Commission, 15, Bailey Road, Patna - 800001.
5. The Joint Secretary - cum - Examination Controller, Bihar Public Service Commission, 15, Bailey Roa

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr. P.K. Verma, Adv.



**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 14-12-2022

1. No one appears for the petitioners.

2. This is an application praying for quashing the terms and conditions of educational qualification laid down in the advertisement, issued by the respondents Bihar Public Service Commission, in the year 2014, whereby exemption from passing National Eligibility Test for extending to only to those candidates who have obtained Ph.D. degree on the basis of Minimum Standard and Procedure Regulation, 2009 framed by the UGC.

3. The issue raised in the present petition is no more res integra as stands finally settled by the Supreme Court in **P. Suseela & Ors. Vs. University Grants Commission & Ors. (2015 (8) SCC 129)**, wherein it has been held as under:-

“12: It is clear that Section 26 enables the Commission to make regulations only if they are consistent with the UGC Act. This necessarily means that such regulations must conform to Section 20 of the Act and under Section 20 of the Act the Central Government is given the power to give directions on questions of policy relating to national purposes which shall guide the Commission in the discharge of its functions under the Act. It is clear, therefore, that both the directions of 12-11-2008 and 30-3-2010 are directions made pertaining to questions of policy relating to national purposes inasmuch as, being based on the Mungekar Committee Report, the Central Government felt that a common uniform nationwide test should be a



minimum eligibility condition for recruitment for the appointment of lecturer/Assistant Professors in universities/colleges/institutions. This is for the obvious reason that MPhil degrees or PhD degrees are granted by different universities/ institutions having differing standards of excellence. It is quite possible to conceive of Mphil/PhD degrees being granted by several universities which did not have stringent standards of excellence. Considering as a matter of policy that the appointment of Lecturers/Assistant Professors in all institutions governed by the UGC Act (which are institutions all over the country), the need was felt to have in addition a national entrance test as a minimum eligibility condition being an additional qualification which has become necessary in view of wide disparities in the granting of Mphil/PhD degrees by various universities/institutions. The object sought to be achieved by these directions is clear: that all Lecturers in universities/Colleges/institutions governed by the UGC Act should have a certain minimum standard of excellence before they are appointed as such. These directions are not only made in exercise of powers under Section 20 of the Act but are made to provide for coordination and determination of standards which lies at the very core of the UGC Act. It is clear, therefore, that any regulation made under Section 26 must conform to the directions issued by the Central Government under Section 20 of the Act.

13: *It was argued that since the previous approval of the Central Government was not necessary for the regulations which define the qualifications required of persons to be appointed to*



the teaching staff of a university, the Government has no role to play in such matters and cannot dictate to the Commission. This argument does not hold water for the simple reason that it ignores the opening lines of Section 26(1) which states that the Commission can only make regulations consistent with the Act, which brings in the Central Government's power under Section 20 of the Act, a power that is independent of sub-section (2) of Section 26. A regulation may not require the previous approval of the Central Government and may yet have to be in conformity with a direction issued under Section 20 of the Act. In fact, even where a regulation can only be made with the previous approval of the Central Government, the Central Government would have a role to play both before and after the regulation is made. In the first case, it would accord its previous approval to the regulation. Once the regulation becomes law, it may issue directions under Section 20 pursuant to which the very same regulation may have to be modified or done away with to conform to such direction. It is clear; therefore, that Section 26(2) would not stand in the way of the directions issued in the present case by the Central Government to the Commission.

17: One of the learned counsel for the petitioners argued, based on the language of the direction of the Central Government dated 12-11-2008 that all that the Government wanted UGC to do was to "generally" prescribe NET as a qualification. But this did not mean that UGC had to prescribe this qualification without providing for any exemption. We are unable to accede to this argument for the simple reason that the word "generally" precedes the word "compulsory" and it



is clear that the language of the direction has been followed both in letter and in spirit by the UGC Regulations of 2009 and 2010.

18: The arguments based on Article 14 equally have to be rejected. It is clear that the object of the directions of the Central Government read with the UGC Regulations of 2009/2010 are to maintain excellence in standards of higher education. Keeping this object in mind, a minimum eligibility condition of passing the national eligibility test is laid down. True, there may have been exemptions laid down by UGC in the past, but the Central Government now as a matter of policy feels that any exemption would compromise the excellence of teaching standards in universities/colleges/institutions governed by the UGC. Obviously, there is nothing arbitrary or discriminatory in this – in fact it is a core function of UGC to see that such standards do not get diluted.”

4. Moreover, this Court finds that the selection process has already been completed.

5. In view of above, the writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

pravinkumar/-
item no. 41

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