

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8896 of 2022

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1. Devanand Kumar @ Devanandan Kumar Son of Late Narendra Prasad Yadav Resident of Village- Nishihara, P.S.- Haveli Kharagpur, District- Munger.
 2. Rudesh Kumar Son of Sri Ramchandra Yadav Resident of Village- Hasanganj, P.S.- Kasimbazar, District- Munger.
 3. Asha Devi Wife of Sri Shambhu Yadav Resident of Village- Kanchangarh Bank, P.S.- Muffasil, District- Munger.
 4. Shashi Shankar Prasad Son of Sri Vinod Shankar Prasad Resident of Mohalla- Verma Villa, Laldarwaza, Near Dalhatta Pul, Munger, P.S.- Kotwali, District- Munger. ... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
 2. The Additional Secretary of Higher Education, Bihar, Patna.
 3. The Vice Chancellor, Bhagalpur Tilkamanjhi University, Bhagalpur.
 4. The Vice Chancellor, Munger University, Munger.
 5. The Registrar, Bhagalpur Tilkamanjhi University, Bhagalpur.
 6. The Registrar, Munger University, Munger.
 7. The Finance Officer, Munger University, Munger.
 8. The Principal, J.R.S. College, Jamalpur, District- Munger. ... Respondents
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Appearance :

For the Petitioners	:	Mr.Indu Bhushan, Adv.
For the State	:	Mr.Madhaw Pd. Yadaw (Gp23)
For Munger University	:	Mr. Ritesh Kumar, Adv.
For the TNBU	:	Mr. Ashhar Mustafa, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 09-11-2022 Heard the parties.

The petitioners by way of this writ petition pray for granting them regularization on the post they are working and also pray for issuing an advertisement for regular selection and allowing them to participate in the said selection with giving them benefit of experience. Further prayer is to grant them the



current wages as per the Government's Regulations.

Learned counsel submits that the petitioners have been working for almost five years now on daily wage basis as they are not being paid the minimum wages as prescribed and the petitioners having deprived from participating in the regular selection.

Keeping in view thereto, learned counsel prays that the petitioners should be considered for regularization on the post which are lying vacant with the respondents. It is the submission that there are sanctioned posts available with the University on which the petitioners are performing duties

I have considered these submissions.

Question regarding the payment being made to the petitioners in contravention of the minimum wages prescribed by the Government, is a factual aspect to be determined by the authority under the Minimum Wages Act for which the petitioners are always free to take up the matter before the appropriate forum provided under the Minimum Wages Act.

As regards the regularization the law has been settled in Secretary, State of Karnataka & Ors. Vrs. Uma Devi & Ors. reported in (2006) 4 SCC, 1, and exception carved out is for those who have completed ten years or more as on the date the judgment was pronounced.

Be that as it may, merely because there are sanctioned



post, this Court does not deem it appropriate to allow the prayer of the petitioners for regularization solely on the ground that the petitioners have been working for five years on daily wage basis. Back door entries on sanctioned post can not be approved by Court and it is in violation of Article 14 of the Constitution of India and discriminates with those who would be waiting for regular employment.

Keeping in view that the petitioners have been working for long period, as and when regular selections are made it is for the authorities to consider their period of service rendered with them, for granting relaxation in experience or preferential treatment. However the said aspect is not to be examined by this Court under Article 226 of the Constitution as it is in the exclusive domain of the appointing authorities alone.

Keeping in view above, no relief can be granted to the petitioners. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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