

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.468 of 2018

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Priyadarshi S/o Dr. Diwesh Nandan Prasad, R/o Village Daniyawa, Post Daniyawa, P.S. Daniyawa, District- Patna Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Patna (Bihar)
2. The Bihar Public Service Commission Patna, through Chairman.
3. The Joint Secretary-Cum-Examination Controller, The Bihar Public Service Commission, Patna. null Addresses of Respondent Nos. 2and3 at 15, Jawaharlal Nehru Marg Belly Road Patna, PIN- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinkar Kumar, Adv. Mr. Ajit Kumar, Adv.
For the Respondent/s	:	Mr. Priyadarshi Matri Sharan, AC to AAG-13
For the B.P.S.C.	:	Mr. Sanjay Pandey, Adv. Mr. Nishant Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

6 04-07-2022 1. The petitioner by way of this writ petition submits that the student has been wrongfully declared as ineligible for appointment as an Assistant Professor in History by the respondents.

2. Learned counsel for the petitioner submits that the petitioner has obtained his qualification of M.A. with Ancient History and the requirement as per the advertisement was that a person must possess the qualification of Post Graduation in the subject or equivalent grade. Learned counsel submits that since Ancient History is an equivalent grade, the petitioner ought to be considered and his candidature has wrongly been declared



ineligible.

3. The respondents have filed their reply and has pointed out that objections relating to the equivalence have been raised in as many as 399 objections were received. In order to get a clarification relating to the equivalence, an Expert Committee was constituted to examine the objections and the Expert Committee has made its recommendation recommending that those applicants who possess M.A. degree in Ancient Indian History, Composite History, History Alter, Western History, Medieval History (Separately), Modern History (Separately) would not be eligible to represent History adequately as taught in the Universities of Bihar.

4. Keeping in view the recommendations of the Expert Committee, the petitioner's candidature was rejected. Learned counsel submits that sending the matter to the Expert Committee would amount to change in the rules of the game after the game has already been started relies upon the judgment passed in **K. Manjusree Vs. State of A.P. & Anr. reported in (2008) 3 SCC 512** and **Himani Malhotra Vs. High Court of Delhi reported in (2008) 7 SCC** as well as one judgment passed by coordinate Bench of this Court **reported in 2017 (4) PLJR 170**. He also relies on the Judgment passed by the



Supreme Court in the case of **Parvez Ahmad Vs. State of J & K** reported in 2016 (1) PLJR Page 132 (SC).

5. I have considered the submissions.

6. The question is whether constituting an Expert Committee for equivalence can be treated as a change in the rule after the game has started. This court has examined the issue with regard to referring the matter to an Expert Committee and found that it is a part of process of selection procedure and examining the eligibility criteria which is in the exclusive domain in the examining body and therefore the judgment cited on this aspect (supra) would have no application.

7. As regards **Parvez Ahmad** (supra), it is noticed that the question before the Supreme Court was whether Master's degree, Forestry, M. Sc. Forestry and B.Sc. Forestry is one of the major subjects was sufficient qualification for appointment on the post of Range Officer, Grade-I in J & K Forest Service. The Apex Court held as under:-

“In our view, if a candidate has done B.Sc. In Forestry as one of the major subjects and has also done Masters in the Forestry, i.e. M.Sc. (Forestry) then in the absence of any clarification on such issue, the candidate possessing such higher qualification has to be held to possess the required qualification to apply for the post. In fact, acquiring higher qualification in the prescribed subject i.e.



Forestry was sufficient to hold that the appellant had possessed the prescribed qualification. It was coupled with the fact that Forestry was one of the appellant's major subjects in graduation, due to which he was able to do his Masters in Forestry."

8. In the present case, there is a report of the Expert Committee before this Court. It is settled law that this Court would not go into the question whether an Expert Committee has wrongly made its recommendations or whether the recommendations require to be corrected. Courts do not have the said expertise.

9. This Court also notices that apart from the post of Assistant Professor, there were other post of Assistant Professor in Ancient History for which the petitioner could have applied, however, he has chosen not to do so.

10. In view thereof, no case is made out. If the Expert Committee has reached to the conclusion as above, no interference is warranted.

11. Accordingly, the writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

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