

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1212 of 2021

1. Vikash Kumar Raju, Son of Chandra Mani Prasad, Resident of Near Devi Sthan, 257/213, Akbarpur Kothi, Langar Toli, P.S.-Gandhi Maidan, District-Patna, Pin Code-800004.
2. Baby Sarika, Wife of Anuj Prasad Singh, Resident of Near Radha Devi School, New Area, P.O. Sikanarpur, P.S.-Muzaffarpur, District-Muzaffarpur, Pin Code-842001.
3. Shiv Prakash Kumar, Son of Sri Jai Prakash Singh, Resident of Village and P.O.-Chandauli, District-Sitamarhi, Pin Code-843316.
4. Purushottam, Son of Late Ramcharana Prasad, Resident of Patel Nagar, P.S. Islampur, District-Nalanda, Pin Code-801303.
5. Shiv Ranjan Kumar, Son of Sri Surendra Prasad Singh, Resident of Village and P.O.-Rahatpur, P.S. Balia, District-Begusarai, Pin Code-851211
6. Mithilesh Kumar, Son of Ambika Paswan, Resident of Near Middle School, Gongaura, P.O.-Badarwali, P.S. Gangaura, District-Nalanda, Pin Code-803110.
7. Vibhash Kumar, Son of Shri Awadh Narayan Mandal, Resident of Village and Post-Krishnadaspur, P.S.-Budhuchak, District-Bhagalpur, Pin Code-813222.
8. Rajesh Kumar, Son of Late Ram Lakhan Mahto, Resident of Mohalla-Mahadeo Path, Ward No. 01, At and P.O.-Rosera, P.S. Rosera, District-Samastipur, Pin Code-848210.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Science and Technology Department, Bihar, Patna.
2. Bihar Public Service Commission, Patna through its Secretary.
3. Chairman, Bihar Public Service Commission, Patna.
4. Secretary, Bihar Public Service Commission, Patna.
5. Joint Secretary-cum-Controller of Examinations, Bihar Public Service Commission, Patna.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Abhinav Srivastava
For the Respondent State:		Mr. Sanjay Kumar, AC to G.P.-23
For the BPSC	:	Mr. Lalit Kishore, Senior Advocate
		Mr. Rajnikant Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

C.A.V. JUDGMENT

Date : 11-05-2022



A Note-4 to Clause 5 of the Advertisement No. 14/2020 issued by the Bihar Public Service Commission inviting applications from eligible candidates for appointment against the posts of Lecturers (Electrical Engineering) in Government Polytechnics/Government Women Polytechnics within the State of Bihar has been put to challenge in the present writ application as, according to the petitioners, the prescription in Note-4 is contrary to the provisions contained under Bihar Polytechnic Education Service Rules, 2020. The said note prescribes that the candidates for interview shall be shortlisted on the basis of written test.

2. An identical Note-4 of paragraph-5 of Advertisements No. 51/2020, 52/2020 and 54/2020 issued by the Bihar Public Service Commission for appointment of Assistant Professors in Government Engineering Colleges was under challenge in C.W.J.C. No. 7963 of 2021 (***Manoj Kumar Singh and Others vs. The State of Bihar and Others***) on the identical ground of the same being violation of similar provision under the extant Bihar Engineering Education Service Rules, 2020.

3. The said C.W.J.C. No. 7963 of 2021 has been dismissed by a judgment and order delivered by the Court today.

4. The reasons discussed in the said judgment for dismissing the writ petition, in my opinion, apply *in toto* to the



facts and circumstances of the present case. Accordingly. this application also deserves to be dismissed, being devoid of any merit.

5. It is recorded that this writ application was heard along with C.W.J.C. No. 7963 of 2021 as identical legal issues were noticed to be involved in both the cases. However, the two cases have been disposed of by separate judgments, as two separate sets of Rules apply in these cases,

6. However, in all fairness to Mr. Abhinav Srivastava, learned counsel appearing on behalf of the petitioners in the present case, the Court must record that while advancing his submissions to question the legality of the impugned note, he relied on following Supreme Court's decisions: -

(1) *Inder Parkash Gupta v. State of J&K*, reported in (2004) 6 SCC 786.

(2) *State of Punjab v. Manjit Singh*, reported in (2003) 11 SCC 559.

(3) *Umesh Chandra Shukla v. Union of India* (AIR 1985 SC 1351) and

(4) *Durgacharan Misra v. State of Orissa* (AIR 1987 SC 2267).



7. The substance of his submission has been, referring to the aforesaid Supreme Court’s decisions, that a term of advertisement, which is contrary to the statutory recruitment rules, is illegal and unsustainable. The said submission, though legally correct, is of no avail for the petitioners on the same reasoning as discussed by this Court in C.W.J.C. No. 7963 of 2021 to the effect that the impugned Note 4 does not violate any statutory provision.

8. This application is thus dismissed.

9. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	01.11.2021
Uploading Date	12.05.2022
Transmission Date	N/A

