

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13173 of 2022

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Bipin Kumar S/o Late Baleshwar Singh, R/o Village-Makanpur, P.O.-
Habibpur, P.S.-Hilsa, District-Nalanda-801302.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Main Secretariat, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Principal Accountant General (A and E) Bihar, Mahalehakar Bhawan, Birchand Patel, Patna.
4. The Secretary, Science and Technology Department, Government of Bihar, Technology Bhawan, Bailey Road, Patna.
5. Secretary, BPSC (Bihar Public Service Commission), 15, Jawahar Lal Nehru Marg, Bailey Road, Patna, Bihar.
6. The Director, Science and Technology Department, Government of Bihar, Technology Bhawan, Bailey Road, Patna.
7. Member Secretary AICTE (All India Council Technical Education) Nelson Mandela Marg Vasant Kunj, New Delhi-110067.
8. Secretary UGC (University Grants Commission) Bahadur Shah Zafar Marg, New Delhi-110002.
9. Dr. Nirmal Kumar Retired Principal Bhagalpur B.C. College Bhagalpur College of Engineering Bhagalpur Flat No. 302 Mohan Residency, Before Sacred Heart Church, New Patuputred, Patna-800013.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Rai, Advocate
For the Respondent/s : Mr.Pawan Kumar (AC To AG)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice /Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Date : 09-09-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

i) To direct Respondent Authorities to quash the promotion of the Respondent No. 9 Dr. Nirmal Kumar, the then principal of Bhagalpur College of Engineering, Bhagalpur from Lecturer to Lecturer Senior Scale, from Lecturer Senior lecturer to Lecturer Selection Grade / as well as Assistant Professor, from Assistant Professor to Professor and from Professor to Principal.

ii) To set aside the notification vide Letter No. 1293 dated 18.05.2016 issued by the Department of Science and Technology, Government of Bihar by which Respondent No.9 have been

appointed for the post of Principal in the Pay- Scale- PB 4 (Rs. 37000- 67400) + Academic Grade Pay Rs. 10000 + Special Pay Rs.3000. which is miscarriage of law and Terms & Condition laid down by the AICTE .

iii) For any other relief/reliefs for which the petitioner is entitled to in the facts and circumstances of the case.

The issue raised in this writ petition does not involve any public interest rather is a service matter with a prayer to quash the promotion of respondent no.9, as such, is not maintainable.

The Apex Court in a case of Ashok Kumar Pandey Versus State of West Bengal and Ors., since reported in 2004(3) SCC, 349, has held as under:-

“16. As noted supra, a time has come to weed

out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that Courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and waiting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors. MANU/SC/0541/1998 : (1998)IILLJ1013SC , this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the Courts' and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore-stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.”

The Apex Court in case of Madan Lal versus High

Court of Jammu and Kashmir and Ors., since reported in 2014
(15) SCC 308, has held as under:-

“8. In this respect, it would be appropriate to refer to the compilation of guidelines to be followed for entertaining letters/petitions received in this Court as Public Interest Litigation based on Full Court decision dated 1.12.1988 with subsequent modifications based on Orders dated 19.08.1993 and 29.08.2003 of the then Hon'ble Chief Justice of India. Under the said guidelines, it has been specifically stipulated as under:

Cases falling under the following categories will not be entertained as Public Interest Litigation and these may be returned to the Petitioners or filed in the PIL Cell, as the case maybe:

- 1.xxx
- 2. Service matter and those pertaining to Pension and Gratuity.

In said view of the matter, the present writ petition
filed in nature of PIL is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	