

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1081 of 2023

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Nisha Kumari Wife of Abhijit Kumar Resident of Bank Colony, New Bangali Tola, G.P.O., Patna, Police Station- Jakkanpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Chairman, Bihar Technical Service Commission, 19, Harding Road, Patna.
4. The Secretary, Bihar Technical Service Commission, 19, Harding Road, Patna.
5. The In-Charge Secretary, Bihar Technical Service Commission, 19, Harding Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prafull Chandra Jha, Advocate
For the State	:	Mr.Ajay Bihari Sinha, GA-8
		Mr. Neeraj Raj, AC to GA-8
For the Commission	:	Mr. Nikesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-05-2023 Heard learned counsel for the petitioner and learned counsel for the State as also learned counsel for the Bihar Technical Service Commission.

Petitioner in the present case is seeking the following reliefs:-

“i) For setting aside the final result published on 07.12.2022 under the signature of the Secretary of the Bihar Technical Service, Patna whereby the petitioner has not been selected on the post of Physiotherapist and directing the respondent authorities to select the petitioner and keep the petitioner's name as successful candidate (direct



recruitment through counseling) in the final result published on 07.12.2022 bearing 03/BTSC-66/2019(Khand-1)3173 by the respondent Bihar Technical Service Commission, Patna on the ground that cut off marks for selection was 47.24% and the petitioner has much higher marks i.e 64.01%.

ii) For directing the respondent authorities to consider the case of the petitioner on the ground that the petitioner has successfully passed Bachelor of Physiotherapy (BPT) bearing Registration No. 60161416100038 from the CMJ University, Established by an act of 1956 and got 81.69% but in the present selected list dated 07.12.2022 published by the respondent Commission name of the petitioner (Roll Number) does not find figure whereas cut off marks final selection is only 47.24% if marks of the petitioner will be calculated for the present selection, it comes $81.69 \times 0.6 = 49.01\%$ and after adding 15 % marks of higher education (MPT), it comes 64.01% and the petitioner is fully eligible for her selection on the post of physiotherapy but the respondent authorities committed gross error and the petitioner has been deprived from her selection on the post of physiotherapist which is clear cut violation of principles of natural justice.

iii) For directing the respondent authorities to consider and select the petitioner on the ground that the petitioner is a bonafide candidate for the post of physiotherapy, fulfills all the criteria for the post of physiotherapy, passed from recognized university, belongs to SC category and from SC category cut off marks is only 47.24 % whereas the petitioner has



much higher marks than cut off marks.

iv) For all consequential reliefs to which the petitioner is found entitled in course of hearing of this writ application.”

It is the case of the petitioner that pursuant to Advertisement No.02/2020 published by the Bihar Technical Service Commission (hereinafter referred to as the ‘Commission’) she applied for the post of Physiotherapist through online application on 29.06.2020. The petitioner was called for counselling on 09.12.2021 and after scrutiny of her papers the respondent Commission raised an objection with regard to the institution from which the petitioner had obtained her degree. The petitioner represented that the CMJ University is registered under Section 2(f) of UGC Act, 1956 and it has been established by the Government of Meghalaya.

Learned counsel for the petitioner submits that despite information furnished to the Commission, the petitioner has not been considered.

On the other hand, learned counsel for the Commission submits that the degree obtained by the petitioner is from a fake university. It is submitted that in the whole writ application the petitioner has not made any statement as to from which campus/centre of the CMJ University, Meghalaya she had obtained the degree. Referring to the judgment of the Hon’ble



Supreme Court in the case of **Prof. Yashpal & Anr. Vs. State of Chhattisgarh & Ors.** reported in **(2005) 5 SCC 420**, learned counsel submits that the degree obtained by the petitioner is in the teeth of the judgment of the Hon'ble Supreme Court.

Having heard learned counsel for the petitioner and learned counsel for the Commission as also on perusal of the records, this Court finds that as per communication contained in Annexure- '7' series the Chancellor, CMJ University has been informed by the University Grants Commission that it is empowered to award degrees through its main campus with the approval of statutory bodies/councils wherever required. According to this communication, there is no provision to have regional centres/off campus beyond the territorial jurisdiction of the State as per the UGC (Establishment of and Maintenance of Standards in Private University) Regulation, 2003 and the judgment of the Hon'ble Supreme Court in the case of **Prof. Yashpal** (supra).

This Court finds that in her own writ application, the petitioner has not disclosed that from which campus/centre she has obtained the degree. Absence of specific statement of the petitioner in this regard would go a long way to show that the degree obtained by the petitioner does not inspire confidence. In



such circumstance, this Court would not issue a prerogative writ.

This writ application is dismissed.

(Rajeev Ranjan Prasad, J)

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