

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3471 of 2020

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1. Gyanoday Kumar Singh, Son of Nagendra Prasad Singh, Resident of Village - Sripal Basant, Post Office- Sripal Basant, Police Station- Garkha, District- Saran (Chapra).
 2. Upendra Kumar Sinha, Son of Late Sachidanand Sinha, Resident of Village - Diripar, Post Office- Makranta, Police Station - Kariapasaurai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
2. The Deputy Secretary, Department of Science and Technology, Government of Bihar, Patna.
3. The Director, Department of Science and Technology, Government of Bihar, Patna.
4. The Principal, Government Polytechnic, Vaishali, Village - Fatehpur Afzalpur, Post Office- Chakmaru, Via- Goraul, District- Vaishali, Pin- 844118.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satish Narain Singh, Advocate
For the Respondent/s : Mr. Kumar Alok (Sc7)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-09-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

2. Petitioners in the present case are seeking the
following reliefs:-

“(i) To issue an appropriate writ, order or direction including a writ in the nature of certiorari for quashing the entire process of appointment for the post of Guest Lecturers on Ad-hoc/temporary/contractual basis initiated through published interview notice no.01/2019-20 issued by the office and under the signature of the Principal, Government Polytechnic, Vaishali



replacing the appointees already appointed on Ad-hoc/temporary/contractual basis against the sanctioned posts including the petitioners which is impermissible in the eyes of law. (Annexure-5)

(ii) To issue an appropriate writ, order or direction including a writ in the nature of mandamus commanding the respondent particularly respondent no.4 not to disturb the petitioner and be permitted to continue with their appointment/engagement who are appointed in 2015 vide interview notice no.01/2015 on ad-hoc/temporary/contractual basis by another ad-hoc/temporary contractual appointees.

(iii) To grant any other relief/reliefs for which the petitioners are found entitled for in view of the facts and circumstances of the case.”

3. On 28.08.2023, after hearing the learned counsel for the petitioners, this Court passed the following orders:

“Heard learned counsel for the petitioners and learned counsel for the State.

2. Petitioners in the present case are seeking the following reliefs:-

“(i) To issue an appropriate writ, order or direction including a writ in the nature of certiorari for quashing the entire process of appointment for the post of Guest Lecturers on Ad-hoc/temporary/contractual basis initiated through published interview notice no.01/2019-20 issued by the office and under the signature of the Principal, Government Polytechnic, Vaishali replacing the appointees already appointed on Ad-



hoc/temporary/contractual basis against the sanctioned posts including the petitioners which is impermissible in the eyes of law. (Annexure-5)

(ii) To issue an appropriate writ, order or direction including a writ in the nature of mandamus commanding the respondent particularly respondent no.4 not to disturb the petitioner and be permitted to continue with their appointment/engagement who are appointed in 2015 vide interview notice no.01/2015 on ad-hoc/temporary/contractual basis by another ad-hoc/temporary contractual appointees.

(iii) To grant any other relief/reliefs for which the petitioners are found entitled for in view of the facts and circumstances of the case.”

3. Learned counsel for the petitioners submits that the petitioners were appointed under the Advertisement bearing Notice No.01/2015 as contained in Annexure- ‘2’ to the writ application, however, they have been removed without issuing any order. It is the contention of learned counsel for the petitioners that the petitioners were stopped from working only to accommodate some other guest lecturers on adhoc basis.

4. Learned counsel submits that in fact the respondent authorities have indulged in removing one set of adhoc guest teachers and replacing them by another set of adhoc guest teachers and this is only illegal and arbitrary in view of the several judicial pronouncements of this Court. Reliance in this regard has been placed on the judgments of this Court enclosed as Annexure-‘6’ and ‘7’ to the writ application in CWJC No.6990 of 2011 and LPA No.1679 of 2014.

5. Learned counsel for the petitioner relies



upon a judgment of the Hon'ble Supreme Court in the case of **Manish Gupta & Anr. Vs. President, Jan Bhagidari Samiti and Ors.** reported in **2022 LiveLaw (SC) 406** wherein the Hon'ble Supreme Court has observed that an adhoc employee cannot be replaced by another adhoc employee.

6. This Court finds force in the submission of learned counsel for the petitioners.

7. This Court further finds that earlier the learned writ Court had directed the State Cabinet Vigilance Department to conduct an enquiry into the scandalous cancellation of contractual appointments and thereafter resorting to take steps for making contract appointment again.

8. Let the respondents file their respective counter affidavit answering the aforesaid aspects of the matter. They will inform in the counter affidavit as to how many appointments have been done under the interview notice no.01/2019-20 (Annexure-'5') by replacing the earlier set of adhoc guest lecturers.

9. They would also produce the order, if any, removing/stopping the petitioners from working as guest lecturers.

10. Issue notice to the respondent no.4 both by registered cover with A/D as well as ordinary process for which requisites etc. must be filed within one week, failing which this application shall stand dismissed as against the respondent no.4 without further reference to a Bench.

11. List this case on 25th September, 2023 under the same heading maintaining its position.

12. In the meantime, counter affidavits be placed on the record."

4. Today, learned counsel for the State has appeared and submits on instruction that permanent appointment process for the Lecturers in Civil Engineering Department of the Government Polytechnic, Vaishali in which these petitioners



were earlier working has already been completed by the Department of Science, Technology and Technical Education. It is stated that due to this reason at present there is no Guest Lecturer working in Civil Engineering Department of the Government Polytechnic, Vaishali and these petitioners cannot have any claim for engagement as Guest Lecturer.

5. Although counter affidavit has not come on behalf of the State, but learned counsel for the State has made the aforesaid statement on the basis of instruction which he has received, therefore, this Court has taken note of the same.

6. In the aforesaid view of the matter, the very cause of action of the petitioner does not survive and nothing remains for adjudication in the present writ application. It has become infructuous and is being disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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