

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20839 of 2021

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1. Shashi Bhushan Son of Lakhan Choudhary resident of Mohalla- Shalbikas Villa, Abhimanu Nagar, P.O. and P.S.- Rupaspur, Danapur, District- Patna, Bihar- 801503.
 2. Dr. Satish Kumar Son of Parmanand Singh resident of Village- Aurwan, P.O.- Pandey Parsawan, P.S.- Magadh Medical, District- Gaya, Bihar- 823004
 3. Dr. Pankaj Kumar Son of Rajendra Prasad Thakur resident of Village- Dhusar, P.O. and P.S.- Tikapatti, District- Purnea, Bihar- 854101
 4. Dr. Nilmani Prakash Son of Om Prakash resident of Mohalla- Bengali Tola, Om Medical Hall, P.O.- Samastipur, P.S.- Samastipur, District- Samastipur, Bihar- 848101.
 5. Md. Zikrullah Shamim Son of Md. Mohiuddin resident of Village- Bisfi Haat, P.O. and P.S.- Bisfi, District- Madhubani, Bihar.
 6. Sandeep Kumar Son of Ram Lakhan Singh resident of Village- Ranjeetpur, P.O.- Khanpur, P.S.- Samstipur, District- Samastipur, Bihar.

... .. Petitioner/s

Versus

1. Lalit Narayan Mithila University through the Registrar, Kameshwar Nagar, Darbhanga, Bihar- 84604.
2. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, Bihar- 84604.
3. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga, Bihar- 84604.
4. Bihar State University Service Commission through its Chairman, 8th Floor, Bihar School Examination Board, Academic Building, Budha Marg, Patna, Bihar- 800001.
5. The Chairman, Bihar State University Service, Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budha Marg, Patna, Bihar- 800001.
6. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budha Marg, Patna, Bihar- 800001.
7. The Honble Chancellor, Raj Bhawan, Patna, Bihar.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8444 of 2020

Dr. Rajesh Anand Son of Late Indu Shekhar Thakur Resident of village- Manjhli Chowk, Chunapur Road, P.S.- Khajanchi Hat, District- Purnea, Bihar.

... .. Petitioner/s



Versus

1. The Chancellor, Universities of Bihar Raj Bhawan, Patna, Bihar.
2. The State of Bihar through Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
4. The Bihar State University Service Commission through its Secretary, Bihar, Patna.
5. The Secretary, Bihar State University Service Commission, Bihar, Patna.
6. The University Grant Commission through its Secretary, Bahadur Shah Zafar Marg, New Delhi.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18616 of 2021

Neelambari Daughter of Triloki Shree Harsh, Wife of Prabhat Singh, Resident of Village - Sanhauli, Post Office - Sanhauli, Police Station- Chitragupta Nagar, Dist. Khagaria, PIN - 851205 At present postal Address - Sri Prabhat Singh, C/o Sarat Chandra Singh, in front of Purnea Public School, Shivajee Colony, Purnea, Bihar, PIN Code - 854301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department (Higher Education), Government of Bihar, New Secretariat, Patna.
3. The Special Secretary, High Education, Education Department, Government of Bihar, New Secretariat, Patna.
4. The Bihar State University Service Commission through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna - 800001.
5. Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna - 800001.
6. Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna - 800001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 21322 of 2021

1. Dr. Dinesh Prasad Gond Son of Late Moti Lal Prasad Resident of Village -Fazilpur, Kandhpaker, P.S. - Asaon, District- Siwan (Bihar) 841287.



2. Dr. Jitendra Kumar Son of Ram Narayan Ram Resident of Village - Piparahia, P.S. - Asaon, District- Siwan (Bihar) 841245.
3. Vidhan Chandra Son of Dinesh Chandra Singh Resident of Village - Barahiya, Tola - Dani, P.S. Barahiya, District- Lakhisarai (Bihar) - 811302.
4. Dr. Kumar Abhishek Son of Raj Banshi Resident of A-15, Prabhunath Nagar, Tari, Chhapra, P.S. - Mufassil, District- Saran (Bihar) 841301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department (Higher Education), Government of Bihar, Patna.
3. The Special Secretary, Education Department (Higher Education), Government of Bihar, Patna.
4. Bihar State University Service Commission through its Secretary, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna.
5. Secretary, Bihar State University Service Commission, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna.
6. Chairman, Bihar State University Service Commission, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna.
7. University Grants Commission (UGC) Bahadur Sah Zafar Marg, New Delhi-110002.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3979 of 2022

1. Nilmani Prakash son of Om Prakash Raj resident of Village- Jitwarpur Nizamat, P.O. and P.S.- Samastipur, District- Samastipur- 848101.
2. Md. Zikrullah Shamim son of Md. Mohiuddin resident of Village, P.O., Via and P.S.- Bisfit, District- Madhubani, Bihar- 847122.
3. Sandeep Kumar Suman son of Ram Lakhan Singh resident At Ranjeetpur, P.O. and P.S.- Khanpur, Via- Ilamasnagar, District- Samastipur, Bihar- 848117.
4. Shashi Bhushan son of Lakhan Choudhary resident of Shalbhkas Villa, Behind Bank Colony, Abhimanue Nagar, P.O. and P.S.- Rupaspur, District- Patna, Bihar 801503.
5. Dr. Satish Kumar son of Parmanand Singh resident of Village- Aurwan, P.O.- Pandey Parsawan, P.S.- Magadh Medical, District- Gaya, Bihar 823004.

... .. Petitioner/s

Versus

1. The State of Bihar



2. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Bihar, Patna- 01.
4. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Bihar, Patna-01.
5. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Bihar, Patna-01.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4869 of 2023

Dr. Sanjeev Kumar Son of Sri Binod Kumar, Resident of Village-Pindarkon, P.O. Tetri, P.S. Namkum, District-Ranchi, presently residing at C/o Prof. Lingaraj Sahoo, N Block Ground Floor, DBT Support Programme Facility, Department of Biosciences and Bioengineering, IIT, Guwahati, P.S. Amingao, District-Kamrup, Assam.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. Bihar State University Service Commission through its Chairman, 8th Floor, Bihar School Examination Board, Academic Building, Budha Marg, Patna, Bihar-800001.
4. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budha Marg, Patna, Bihar-800001.
5. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budha Marg, Patna, Bihar-800001.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 20839 of 2021)

For the Petitioner/s : Mr.Kumar Kaushik, Advocate
For the L.N.M.U. : Mr.Md. Nadim Seraj, Advocate
For the B.S.U.S.C. : Mr. P. K. Shahi, Sr. Advocate
Mr. Pawan Kumar Chaudhary, Advocate
For the U.G.C. : Mr. (Dr.) Amrendra Nath Verma, Advocate
For the Hon'ble Chancellor: Mr. Rana Vikram Singh, Advocate

(In Civil Writ Jurisdiction Case No. 8444 of 2020)

For the Petitioner/s : Mr.Pramod Kumar Thakur
For the State : Mr.Jitendra Kumar Roy-1, SC-13



Mr. U.K. Singh, AC to SC-13
(In Civil Writ Jurisdiction Case No. 18616 of 2021)
For the Petitioner/s : Mr.Din Bandhu Mishra, Advocate
For the State : Mr.Madhaw Prasad Yadaw, GP-23
Mr. Arvind Kumar, AC to GP-23
(In Civil Writ Jurisdiction Case No. 21322 of 2021)
For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate
Ms.Anju Narain, Advocate
Mr. Umesh Kumar Roy, Advocate
Mr. Anant Kumar Sinha, Advocate
For the State : Mr.Prabhakar Jha, GP-27
Mr. Umesh Narayan Dubey, AC to GP-27
For B.S.U.S.C. : Mr. P. K. Shahi, Sr. Advocate
Mr. Pawan Kumar Chaudhary, Advocate
For the U.G.C. : Mr. Amrendra Nath Verma, Advocate
(In Civil Writ Jurisdiction Case No. 3979 of 2022)
For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr.Pranav Kumar, Advocate
Ms. Shristhti Singh, Advocate
For the State : Mr.Jitendra Kumar Roy-1, SC-13
Mr. U.K. Singh, AC to SC-13

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
Date : 20-07-2023

Heard learned counsel for the petitioners, learned senior counsel for the Bihar State University Service Commission (hereinafter referred to as the ‘Commission’), the University and the State of Bihar.

2. These cases are though listed under the heading ‘For Judgment’ but at this stage also, this Court has heard learned counsel for the parties. Mr. P.K. Shahi, learned Senior Advocate has entered appearance on behalf of the Commission and assisted this Court.

3. These writ applications are involving a common issue, therefore, as agreed by the parties, all these matters have been heard together and are being disposed of by this common



judgment.

For sake of clarity on facts, this Court would briefly mention the facts of each of the writ applications hereunder:-

CWJC No.20839 of 2021

4. There are altogether six petitioners in this case who are seeking a direction in the nature of a writ of mandamus to the respondent University to declare the petitioners eligible for appointment in the subject of Botany against the Advertisement No.PTT-01/2021 dated 18.08.2021. They are also praying for a writ in the nature of a writ of Certiorari to quash and cancel the list of candidates who have been provisionally declared ineligible, published on 03.11.2021 for appointment to the post of Guest/Part Time Teachers in the subject of Botany against the abovementioned. It is submitted that the said list declares the petitioners who are post-graduate in the subject of 'Agriculture Bio-Technology' from Dr. Rajendra Prasad Central Agriculture University, Pusa, Samastipur ineligible for appointment in the subject of Botany.

By yet another prayer, the petitioners have prayed for a writ in the nature of a writ of Certiorari for quashing and setting aside the Footnote-1 of para 2 of the Advertisement No.PTT-01/2021 which prescribes that in the matter of concerned/relevant/allied



subjects, list prepared by the Commission for regular appointment on the post of Assistant Professor against the advertisement issued by it on 21.09.2020 will apply in selection of Guest/Part Time Teachers also.

5. It is the case of the petitioners that all these petitioners having done their graduation, completed post-graduation from Dr. Rajendra Prasad Central Agricultural University, Pusa, Samastipur in the subject of Agriculture Bio-Technology. It is stated that syllabus of M.Sc. Bio-Technology in the different Universities across the State of Bihar including Dr. Rajendra Prasad Central Agricultural University are more or less the same and there is no reason as to why Agriculture Bio-Technology would not be treated as relevant/allied subject of the core subject Botany.

6. It is stated that respondent-University published an advertisement bearing Advertisement No. PTT-01/2021 dated 18.08.2021 inviting applications from eligible candidates for engagement of Guest/Part Time Teachers in the different subjects purely on temporarily basis. Annexure- '1' to the writ application is the copy of the advertisement. In the subject of Botany, 72 vacancies have been notified. Para- '2' of the advertisement prescribes the essential qualification and



experience, according to which a Master Degree with 55% marks or an equivalent grade in a point scale, wherever the grading system is followed, in concerned/relevant/allied subjects is required. The cluster of words ‘concerned/relevant/allied’ have been further referred to the footnote-1, according to which “in the matter of concerned/relevant/allied subjects, the list prepared by the Commission for regular appointment on the post of Assistant Professor against the advertisement issued by it on 21.09.2020 will apply in selection of Guest/Part Time Teachers also.” The petitioners are aggrieved by and dissatisfied with the footnote 1. It is their contention that the essential qualification and experience prescribed by the university in the advertisement is in tune with the UGC Regulation framed in exercise of power conferred under clause (e) and (g) of Section 26 of the University Grants Commission Act, 1956 (hereinafter referred to as the ‘UGC Act’). The Regulation prescribes minimum qualification for appointment of teachers.

7. Learned counsel representing the petitioners submits that the list prepared by the Commission for regular appointment to the post of Assistant Professor is merely a guideline and it cannot be said to be a conclusive evidence/list of relevant subject.



8. Learned counsel for the petitioners submits that the advertisement dated 21.09.2020 which is referred in footnote-1 of the present advertisement prescribed a similar minimum qualification for appointment of Assistant Professor. The advertisement contained a list of concerned (core) subject and their allied/relevant subject in the Schedule-I. The same list has been incorporated in the present advertisement by way of footnote-1 inserted in para '2'. It is pointed out that some of the candidates having post-graduate in another subject claimed that their subject is an allied/relevant subject to the core subject, the grievance of those candidates was considered by the Commission and Commission came out with a corrigendum dated 17.12.2020 by which they included the subject 'Bioinformatics' in the light of relevant/concerned/allied subject of Botany and Zoology but while issuing the corrigendum the Commission placed a condition that 'Hons' in Botany and Zoology would be essential. This was made essential for the candidates in possession of degree in the subject of 'Bioinformatics' but on a challenge thrown to the said condition by one Dr. Perna Priya in CWJC No.8860 of 2020, a learned coordinate Bench of this Court has been pleased to declare that such additional qualification could not have been brought in the



mid-way and that would be against the Regulations framed by the UGC in the year 2018 and also against the provisions contained in the statutes for appointment of Assistant Professor for the Universities of Bihar, 2020. There would be no requirement for a candidate to possess the aforesaid additional educational qualification.

9. Learned counsel for the petitioners has placed before this Court the provisions contained in the Statutes for Appointment as Assistant Professor in the Universities of Bihar-2020 which has been framed by the Hon'ble Chancellor in exercise of his power vested in him under Section 36(7) of the Bihar State Universities Act, 1976 and the Patna University Act, 1976 (as amended up-to-date). Clause 3.3 under Chapter 3 of the statutes prescribes the essential qualification. Clause 3.8 specifically mentions about the eligibility of candidates with degree in concerned/relevant/allied subjects and according to this sub-clause 3.8 the eligibility of candidates with degree in concerned/relevant/allied subjects for any specific subjects will be decided by the commission on the recommendation of a committee consisting of two or three subject experts. The equivalence of similar subjects with different names in different universities will be decided by committee consisting of two or



three subject experts.

10. Learned counsel has drawn the attention of this Court towards the qualification issued by the University Grants Commission (Annexure- '7') wherein regarding query no.4 it has been clarified that “ the relevance of subject or inter-disciplinary nature of subject is required to be decided by the concerned University/Appointing Authority with the help of subject experts in the concerned/related field as per its requirement. UGC Regulations, 2010 defines the same.

11. Learned counsel for the petitioners submits that there is nothing on record to show that at any point of time the Commission has considered as to whether the post-graduate degree in Agriculture Bio-Technology would be taken as concerned/relevant/allied subject to the core subject of Botany. It is submitted that the decision of the Commission regarding concerned/relevant/allied subject was lastly taken in the meeting held on 02.03.2022 which was prior to the present advertisement. The minutes of the meeting which has been produced by the respondent Commission does not suggest that the relevance of agriculture Bio-Technology for the post of Botany has been considered by the expert committee. It is, thus, submitted that there is no averment in the entire counter



affidavit that after the application form was received, subject of Agriculture Bio-Technology was considered for its relevance for the subject of Botany by any expert committee constituted by the Commission.

12. It is submitted that the fact of the matter is that the different universities are treating the petitioners in different ways. The petitioner no.1 has been appointed as a guest/part time assistant professor in Veer Kunwar Singh University. The petitioner no.2 was shortlisted for interview for the subject of Botany in Tilka Manjhi Bhagalpur University. All the six writ petitioners having completed their NET from Indian Council of Agricultural Research recognized by the University Grants Commission in the subject of Agriculture Bio-Technology and it is submitted that even the candidates in the subject of Botany are required to undertake examination in the subject of Agriculture Bio-Technology. To strengthen his submissions, learned counsel for the petitioners has drawn the attention of this Court towards the relevant extract of the notification issued by the ICAR for conducting NET, 2017. Appendix VI thereof contained the discipline of Agriculture Bio-Technology in which those having masters degree in Botany were also allowed to participate. Thus, it is submitted that the candidates who have completed post-



graduation in Botany as well as Agriculture Bio-Technology are eligible to participate in the NET conducted for the subject of life sciences. In this regard Annexure- 'P-17' and 'P-18' attached to the rejoinder counter affidavit of respondent no.4 and 6 have been placed before this Court.

CWJC No.8444 of 2021

13. In this writ application the sole petitioner has done his post-graduation in 'Agro Chemicals and Pest Management' (Faculty of Science) from University of Delhi. He has qualified in the CSIR-UGC-NET examination in life sciences in Junior Research Fellow Category in the year 2002 and 2004 and NET category in the year 2004 and 2005 on the basis of his aforementioned post-graduation degree. He has joined the Department of Botany, Patna University for his Ph.D. degree and has been awarded Ph.D. degree in Botany by Patna University. It is his submission that his candidature was found suitable by Patna University for Botany which is evident from his Ph.D. Degree awarded by Patna University. Similarly it is submitted that he applied for lectureship (Assistant Professor) in the Central University of Himachal Pradesh, Dharamshala and in the Central University of Haryana on the basis of his qualification and was found suitable by both the universities. He



is presently working as Assistant Professor (purely Temporary basis) in the Department of Bio-Technology GGY (A Central University), Bilashpur for last more than four years. According to him, the syllabus of M.Sc. in Agro Chemicals and Pest Management covers the areas of Zoology, Botany and Chemistry as described in the proceeding of Academic Council of University of Delhi, therefore, M.Sc. Agro Chemicals and Pest Management is in fact equivalent or on some occasions on better footing than all those five subjects which have been kept as allied/relevant subjects of Zoology and Botany.

CWJC No.18616 of 2021

14. The petitioner in the present writ application has done her Post-Graduation course in Master of Science with 'Plant Physiology' in the year 2015. She was a student of college of Basic Science and Humanities in Junagadh Agriculture University, Junagadh. She claims that basic scheme and Physiology was her specialized degree. It is submitted that the University of Delhi provides opportunity to study the Physiology and Bio Chemistry to their students and both are closed to each other. The Department of Botany, Periyar University also gives opportunity to study the plant physiology and Bio-Chemistry jointly in P.G. Programme and Patna



University has also included the plant physiology in his course curriculum for undergraduate courses under choice based credit system and it is at serial no.12-plant physiology. According to this petitioner it comes under core course which is compulsory paper and petitioner has studied during Botany Honours Courses. It is submitted that “Bioinformatics” which comes under Discipline Centric Electric, which is not compulsory paper of Botany is included in Advertisement, but compulsory paper plant physiology has been left out. This petitioner has qualified NET which was organized by Indian Council of Agricultural Research, New Delhi on 01.08.2016. This petitioner is engaged as guest/part time teacher in Purnea University, Purnea at Forbesganj college since 20.02.2019. She has further obtained Ph.D. in plant physiology from Dr. Rajendra Prasad Central Agriculture University, Pusa, Samastipur, Bihar on 13.06.2019. Her grievance is that in the advertisement in schedule-I annexed with the advertisement dated 01.09.2021 for the post of Assistant Professory at serial no.16 the subject Botany is mentioned and there is no plant physiology under the list of concerned core subject and their allied/relevant subject.



CWJC No.21322 of 2021

15. Mr. Rajendra Narayan, learned senior counsel for the petitioners in the present case has, while leading the arguments on behalf of the petitioners, endorsed most of the arguments advanced by Mr. Kumar Kaushik, learned counsel for the petitioners in first case (CWJC No.20839 of 2021). It is the case of these petitioners that the petitioner no.1, 2 and 4 have obtained higher education of Master of Science (M.Sc.) in Applied Microbiology from Banaras Hindu University (BHU). Petitioner no.3 has obtained higher education of Master of Science (M.Sc.) in Applied Microbiology from Patna University. Petitioner nos.1, 2 and 4 have successfully completed their Ph.D. in the subject of Applied Microbiology from BHU and University of Calcutta.

16. Learned senior counsel submits that the grievance of these petitioners is that the subject of Applied Microbiology is missing from the list of concerned/relevant/allied subject to the core subject of Botany and Zoology (which are life sciences). It is submitted that under concerned/core subjects of Geology at serial no.2, management at serial no.4, Mathematics at serial no.15 and chemistry at serial no.17, their applied fields of allied/relevant subjects of Applied Geology, Applied /



Business Economics, Applied Mathematics and Applied Chemistry respectively are mentioned in the schedule to the list of subjects contained as part of the advertisement/notice dated 21.09.2020 but subject of Applied Microbiology has been left out.

17. Learned senior counsel further submits that the BHU had recently issued an Advertisement no.01/2020-21 for teaching posts and Group A posts in the University and the posts include that of Assistant Professors in various subjects. The University issued a list of allied/relevant subjects of concerned (core) subjects which was appended with the advertisement. In this list of allied/relevant subjects Botany appears at serial no.27 in which against the said subject of Botany in the allied subject “Applied Microbiology” is duly mentioned. The BHU has also certified that syllabus of M.Sc. Applied Microbiology course of BHU equivalent with the M.Sc., Microbiology course of other Universities of Country and it is an allied subject of Botany. Annexure- ‘10 series’ to the writ application are the letters issued by the Head of Department of Botany, BHU in this regard. It is further submitted that the Hon’ble Madras High Court has held in the case of J. Amuthamani vs. the Member Secretary, Teachers’ Recruitment Board and others (W.P.



No.33274 of 2017) vide its judgment dated 20.12.2017 that Applied Microbiology and Microbiology are equivalent in its course and are allied subjects of the core subject of Botany/Zoology. Referring to the judgment of this Court in the case of Dr. Prerna Priya, it is submitted that the said petitioner had done her Post-Graduation in Bioinformatics which has been treated as allied subject to the core subject of Botany and Zoology. Learned senior counsel, therefore, submits that the act of the respondents in omission or leaving out or not including the allied subject of Applied Microbiology in the concerned/core subjects of Botany and Zoology in its advertisement dated 21.09.2020 is totally surprising and unfortunate which has resulted in the present set of litigations.

CWJC No.3979 of 2022

18. The petitioners in this writ application are seeking a direction to the respondents to include Agricultural Bio-Technology as an allied/equivalent subject to Bio-Technology in recruitment for the post of Assistant Professor under Botany and Zoology subjects. They are seeking a declaration that the Agricultural Bio-Technology is an allied subject to Biotechnology, therefore the petitioners are eligible to be considered for appointment as Assistant Professors under the



advertisement in question.

19. Mr. Y.V. Giri, learned senior counsel for the petitioners submits that the petitioners have been conferred with the degree in Agricultural Bio-Technology from Rajendra Agricultural University which is a Central Agricultural University. The degree has been awarded by the Department of Agricultural Bio-Technology and Molecular Biology. It is submitted that the Agricultural Bio-Technology is equivalent/allied subject to Bio-Technology, is certified/recognized by two advertisements issued by the Central Universities. First, Dr. Rajendra Prasad Central University, Pusa, Samastipur published advertisement no.01/2018 dated 17.03.2018 for the appointment to the post of Assistant Professors in the university under different subjects. Under the heading of faculty of basic sciences and humanities, eligibility qualification was specified as - “ Masters degree in Agricultural Bio-Technology/Bio Technology/Molecular Biology or equivalent degree...”. Thus, no distinction has been made between the degrees of Agricultural Bio-Technology and Bio-Technology.

20. Learned senior counsel for the petitioners submits that the Bihar Agricultural University, Sabour (Bhagalpur) came



out with advertisement no.01/2020 for the appointment of Assistant Professor-cum-Junior Scientist/Junior Scientist in various disciplines. In the said advertisement also in schedule I at serial no.12, for the discipline of Bio-Technology Agricultural Bio-Technology has been added in the description of relevant degrees required as - “Masters degree in Bio-Technology/Agricultural Bio-Technology/Plant Bio-Technology/Molecular Biology and Bio-Technology following a professional Bachelors degree in Agriculture/Horticulture/Bio-Technology.”

21. Learned senior counsel for the petitioners submits that the petitioners have filed a detail representation before the Chairman of the Commission on 06.12.2021 for including Agricultural Bio-Technology as allied subject for appointment to the post of Assistant Professor under Zoology and Botany subjects against the advertisement dated 21.09.2020 published by the Commission. It is submitted that till date no action has been taken by the Commission in terms of clause 3.8 of the statutes wherein the respondent Commission is obliged to consider and decide the eligibility of the candidates. It is submitted that the action of the respondent Commission in not constituting a Committee in terms of clause 3.8 of the Statutes is



violative of Article 14 and 16 of the Constitution of India, depriving the petitioners of reasonable opportunity to be considered.

CWJC No. 4869 of 2023

22. The sole petitioner in this case has completed his graduation from Ranchi University in the year 2009. He passed his Masters of Science in the subject of Genetic Engineering from School of Bio-Technology, Devi Ahilya University, Indore in the year 2011. This petitioner has completed his National Eligibility Test (NET) conducted by the ICAR in the subject of Agricultural Bio-Technology and a certificate to this effect has been issued to him on 16.06.2014. He has also completed his Ph.D in the subject of Botany in the year 2017.

23. It is the case of the petitioner that the Advertisement dated 21.09.2020 prescribed the minimum qualification for appointment of Assistant Professor which is similar to the prescriptions made in the UGC Regulations. The said advertisement contained a list of concerned (core) subject and their allied/relevant subject in the Schedule-I but the said Schedule-I did not mention of Genetic Engineering as a relevant/allied subject of Botany. The petitioner claims that he is otherwise eligible for selection in the subject of Botany,



therefore, he applied against the aforesaid advertisement in the subject of Botany. This petitioner has also taken identical pleas to impress upon the respondents that his subject is a relevant subject for appointment in the subject of Botany as well as Zoology.

Stand of the Commission

24. Mr. P.K. Shahi, learned Senior Advocate submits with reference to the counter affidavit filed on behalf of respondent nos. 3 to 5 in CWJC No. 4869 of 2023 that the Commission is ready to consider the petitioners' eligibility in terms of their qualification in relation to the core subject of Botany and Zoology. Paragraph '13' of the counter affidavit has been relied upon to say that the stand of the commission as disclosed in paragraph '13' of the counter affidavit filed in CWJC No. 4869 of 2023 shall apply in respect of each of the writ applications and cases of all the individual writ petitioners shall be considered by the Commission in accordance with clause 3.8 of the Statute. Learned Senior Counsel submits that such consideration will be given within a period of two months from today and necessary corrigendum, if any, shall be issued within the aforesaid period.

25. It is further submitted that earlier the Commission



had constituted a Committee of subject experts for deciding the allied/relevant subject for appointment of the Assistant Professor and on the basis of the report of the subject expert for the core subjects, allied/relevant subjects had been decided and accordingly advertisement has been published. A copy of the minute of the meeting dated 02.03.2020 of the Commission has been placed as Annexure- 'B' to the counter affidavit.

26. It is the further stand of the Commission that prior to submission of the representations of the petitioners, a full-fledged meeting of the respondent Commission had taken place with regard to the claim of some allied subjects to its core subject and accordingly a corrigendum dated 17.11.2020 has already been issued modifying the advertisement for the post of Assistant Professor in the context of some core subjects in which on the basis of the subject expert committee report, some of the allied subjects have been incorporated. Annexure- 'C' to the counter affidavit is the copy of the corrigendum dated 17.11.2020.

Consideration

27. Having heard learned counsel for the petitioners, learned senior counsel for the Commission and learned counsel for the University as also on perusal of the records what has ultimately transpired is that the petitioners are praying for



consideration of their respective grievances as regards non-inclusion of the subject in which they have done their post-graduation as concerned/allied/relevant subject to the core subject of Botany and Zoology. It is their grievance that the minutes of the meeting dated 02.03.2020 (Annexure- 'B' to the counter affidavit of the Commission in CWJC No.3979 of 2022) does not contain a full-fledged consideration of the subjects and this meeting had taken place much before issuance of the advertisement and receipt of the application from the petitioners. It is also their grievance that so far as the corrigendum dated 17.11.2020 (Annexure- 'C' to the counter affidavit) is concerned, this also nowhere considers the grievance of the petitioners.

28. Earlier when these writ applications were taken up for consideration as back as on 20.10.2022 and 16.01.2023, this Court passed two orders which are quoted hereunder for a ready reference :-

order dated 20.10.2022

“Learned counsel for the petitioner has invited the attention of this court to a judgment passed by the apex court in the case of **Anand Yadav & Others Vs. State of UP & Others 2020 SCC Online SC 823**.

However, from the said judgment this court notices that the apex court is of the view that the concerned educational authorities ought to be impleaded as a party with regard to the



question of equivalence. In the present case, the question is with regard to equivalence of the subject of Agricultural Biotechnology with that of Botany and the argument being advanced is that the U.G.C. allows a candidate who has done studies in Agricultural Biotechnology to appear in the examination of N.E.T. for subject of Life Sciences and a student of Botany also is allowed to appear in the subject of Life Science and for the syllabus of Botany is also a part of the syllabus for Agricultural Biotechnology. These are the aspects which only an expert committee can examine.

Keeping in view thereto, it would be essential therefore to hear the stand of the U.G.C. as well as that of the Indian Council of Agricultural Research. Let notices be issued.

The learned counsel for the petitioner shall implead both U.G.C. and I.C.A.R. as parties to the writ petition file an amended cause title and also serve copies of the said writ petition to any counsels appearing for as I.C.A.R. well as UGC in this court.

In the meanwhile, the University may form an expert committee at its own level in consonance with the notification dated 10.08.2020 to find out the equivalence of the subject of Agricultural Biotechnology with other subjects including subject of Botany.

The learned counsel appearing for the Commission informs that issue regarding equivalence with the subject of Botany are also pending in relation to subject of Agriculture and Pest Management, Agricultural Biotechnology C.W.J.C. NO.8444/20, Physiology CWJC No. 18616/2021, Applied Microbiology CWJC 2133/2021 and CWJC No. 3979/2022 with regard to the same subject as in the present case.

Let all the cases be listed together on 21.11.2022 along with the present case. The University may if so choose consider the aforesaid subjects also for the purpose of equivalence by the committee which they may



form.

List this case on 21.11.2022.”

order dated 16.01.2023

“The counter affidavit of the University Grants Commission has not been received in these matters and the counsel wants time.

Two weeks time is being granted to the University Grants Commission to file its reply. The Bihar State University Service Commission has already filed its reply and rejoinder has also been filed.

It is informed that in C.W.J.C. No. 21322 of 2021 an interim order was passed by this Court directing the respondents to allow the petitioner to participate in the interview to be conducted for the subject of Botany provisionally with further direction that the result of the petitioner shall not be declared without prior permission of this Court.

In C.W.J.C. No. 18616 of 2021 and C.W.J.C. No.3979 of 2022 learned Senior Counsel for the petitioners states that a similar direction be issued for allowing them to provisionally participate them in the interview for the subject of Botany.

Learned counsel appearing in connected case, C.W.J.C. No. 8444 of 2020, has invited my attention to the order passed earlier on 11.07.2020 where the directions were issued to accept the application of the petitioner for participation in the selection process for the post of Assistant Professor of Botany.

Question which requires to be examined is whether the other subjects in the field of studies relating to Botany can be treated to equivalent for the purpose of participation for selection for the post of Assistant Professor in Botany. The University Grants Commission has to make its submission in this regard as observed earlier. At the same time, as there is interim order passed in some of the cases for allowing them to provisionally participate in the interview, while in other cases order has not been passed. It is



deemed appropriate to direct the Bihar State University Service Commission to allow all the petitioners to participate in the interview, before the cases finally heard and their participation in the interview will not create any right in their favour and their result shall not be published without permission of the Court.

List all these cases again on 8th February, 2023.

It is made clear that if the University Grants Commission does not file its reply, the Secretary, University Grants Commission, shall remain present in Court on the next date.

It is informed by the learned counsel for the Commission that on-line application forms of the application have not been accepted on account of the equivalent subject as claimed by the petitioners.

Keeping in view thereto, it is also directed that the petitioners' off-line application forms shall be considered for the purpose of allowing them to participate in the interview, in order to avoid any complication."

29. Today, with the kind of stand taken by Mr. P.K. Shahi, Sr. Advocate and on behalf of the Commission, learned counsel for the parties agree that these writ applications may be disposed of taking note of the submissions of the learned Senior Advocate for the Commission.

30. Since the learned Senior Advocate for the Commission has submitted that the Commission is ready to consider the case of each of the petitioners in accordance with clause 3.8 of the Statue by appointing adequate number of subject experts, this Court is disposing of these writ applications



with a direction to the Commission to revisit its list of the concerned/relevant/allied subjects, consider the case of the petitioners in all these writ applications in accordance with clause 3.8 of the Statue and notify its decision within a period of two months from today.

- 31. These writ applications are disposed of accordingly.
- 32. There will be no order as to costs.

(Rajeev Ranjan Prasad, J)

arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.07.2023
Transmission Date	

