

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9820 of 2010

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1. Dr. Shiw Kumar Jiloka son of Late Madan Lal Jiloka, Reader, Department of Commerce, B.N.College, Bhagalpur
 2. Dr. Pawan Kumar Poddar S/O Late Radhe Shyam Poddar, Reader, Post Graduate Department of Commerce, T.M.Bhagalpur University, Bhagalpur
 3. Dr. Mahendra Kumar Singh S/O Late Sahdeo Singh, Reader, Department of Commerce, Marwari College, Bhagalpur
 4. Dr. Punam Chand Badalia S/O Late Fulchand Badalia, Reader, Department of Commerce, Marwari College, Bhagalpur
 5. Dr. Krishna Chandra Jha S/O Late Badri Nath Jha, Reader, Department of Commerce, Marwari College, Bhagalpur

... .. Petitioner/s

Versus

1. The Honble Chancellor of the Universities, Bihar, Raj Bhawan, Patna.
2. The T.M.Bhagalpur University, Bhagalpur, through its Registrar
3. The Vice-Chancellor, T.M.Bhagalpur University, Bhagalpur
4. The Registrar, T.M.Bhagalpur University, Bhagalpur
5. The Finance Officer, T.M.Bhagalpur University, Bhagalpur
6. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Govt.
7. The Secretary, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna
8. The Director, Department of Higher Education, Govt. of Bihar, New Secretariat, Patna
9. Shri Om Prakash Gupta S/O Late Bishwanath Prasad Gupta Principal, J.P.College, Narayanpur, Distt.- Bhagalpur
10. Shri Jagdish Prasad Sharma S/O Late Ballav Sharma Lecturer in Commerce, B.N.College, Bhagalpur
11. Shri Deo Narayan Sah S/O Late Ghinishi Sah Lecturer in Commerce, B.N.College, Bhagalpur
12. Shri Vinod Kumar Singh S/O Sri Harshit Prasad Singh Lecturer, in Political Science, K.S.S. College, Lakhisarai

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Purushottam Kr.Jha, Advocate
For the Respondent/s : Mr.GA 7

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA



ORAL ORDER

7 15-02-2023

Re: Interlocutory Applicator No.5497 of 2010

Learned counsel for the petitioner submits that I.A. No.5497 of 2010 was filed for seeking interim order, which has become infructuous by a flux of time, however, he insists that the writ petition is required to be heard on merits.

The Interlocutory Application No.5497 of 2010 is accordingly dismissed as having become infructuous.

CWJC No.9820 of 2010

The petitioners by way of this writ petition pray as under : -

“(i) Issuance of an order, direction or a writ in the nature of certiorari quashing notification No.46/2010 dated 05.05.10, whereby and whereunder the effective date of absorption of the private respondents along with other similarly situated persons have been fixed w.e.f. 28.02.1982.

(ii) Issuance of an order, direction or a writ in the nature of certiorari quashing order dated 05.04.10, whereby and whereunder the Respondent no.1 in the case of Om Prakash Gupta & Ors. has inter alia held that the Third Statute of regularization of teachers of the Universities in Bihar, should be treated as withdrawn and the University be directed to consider 28.02.82 as the effective cut off date for regularization of the petitioner i.e Om Prakash Gupta and 23 other teachers of the Respondent University including the private respondents.

(iii) To hold and declare that the effective date of regularization of the teachers working in the Universities in Bihar, who have been regularized/absorbed in the services of the respective Universities including the Respondent University can no/should not be w.e.f. 28.02.82 rather the same should be w.e.f. the date of sanction of posts held by them or at best w.e.f. 29.01.86.



(iv) Issuance of an order, direction or a writ in the nature of mandamus commanding the respondents concerned to grant the due benefits of regularization/absorption to such teachers who have been regularized in view of the Third Statute of regularization dated 29.01.86 from the date the said Statute has been signed by the Hon'ble Chancellor of the Universities in Bihar i.e. 29.01.86.

(v) To hold and declare that the private Respondents are junior to the petitioners in the rank of Lecturer.

(vi) To hold and declare that the order as contained in Annexure 2 to this writ petition has been procured by the private respondents by way of suppressing the material facts to the effect that the then Respondent University vide notification no.224/03 dated 19.08.03 has absorbed the services of private respondents w.e.f. the dates the posts held by them are sanctioned.

(vii) To hold and declare that the order impugned passed by the Respondent no.1 dated 05.04.2010 (Annexure 2) is not only contrary to the concerned statute of regularization dated 29.01.86 and several judgments and orders passed by this Hon'ble Court as well as the Apex Court, but the same is also contrary to the various clarifications issued by the Respondent no.1 as contained in Annexure 11 series to this writ petition.

(viii) For grant of any other relief or relief to which the petitioner may be found entitled to in the facts and circumstances of this case.”

Admittedly, the petitioners do not fall within the category of persons, who were absorbed together.

So far petitioners are concerned, they were screened and appointed separately in the year, 1983 as admitted by the learned counsel at Bar.

From perusal of the writ petition, this Court finds that there is no lis between the petitioners and those who have been appointed by absorption w.e.f. 28.02.1982.



No cause of action has arisen, which may affect the petitioners.

The writ petition against absorption of other teachers does not lie at the behest of persons, who are not included in the said category.

Petitioners do not have locus.

Writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Chn/-
Item No.5

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