

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6203 of 2016

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Rovins Kumar, son of Bhushan Sharma, Resident of village and P.O. Noawan,
Police Station - Sakurabad, District - Jehanabad.

... .. Petitioner/s

Versus

1. The Lalit Narayan Mithila University, Darbhanga, through its Registrar
2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
3. The Registrar, Lalit Narayan Mithila University, Darbhanga.
4. The Director, Women's Institute of Technology, Kameshwar Nagar, Darbhanga.
5. Kalpana Kumari, w/o Bhim Mahto, Bangla No. 11, Paschim Road Purana Bus Stand, Police Station - Lalbagh, Darbhanga, Pin Code - 846004, employee of Vice-Chancellor Office, resident of University Campus Quarter No. Income Tax Chowraha, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sarvdeo Singh Mr. Sanjeev Ranjan
For the University	:	Mr. Iqbal Asif Niazi
For Respondent No. 5	:	Mr. Ajay Behari Sinha, Sr. Adv. Mr. Suryakant Kumar Mr. Neeraj Raj

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 30-05-2023

The present writ application has been filed for quashing the appointment of respondent no. 5 on the post of Librarian, issued vide letter, dated 11.05.2015, pursuant to Advertisement No. 01/2015, dated 23.01.2015, published by the Registrar, Lalit Narayan Mithila University, Darbhanga (in short, 'the



University'), under the orders of the Vice Chancellor of the University.

2. The Women's Institute of Technology, Darbhanga, (now, Dr. A. P. J. Abdul Kalam Women's Institute of Technology (herein after referred to as 'the Institute') was established by the University in the year 2004, under self-finance scheme on the initiative taken by the Syndicate of the University and is governed by the Managing Committee, constituted under the bye-laws of the Institute. The Vice Chancellor of the University is the Ex-Officio Chairman of the Managing Committee of the Institute and the Registrar of the University is the Ex-Officio Member of the Managing Committee of the Institute.

3. The Institute started three courses, namely, Computer Science, Information Technology and Master in Computer Application, with a capacity of 60 students in each stream. The Managing Committee of the Institute created different Class III and IV posts in the meeting of the Managing Committee of the Institute in the year 2005. The posts were created as per the guidelines issued by the All India Council of Technical Education and was forwarded to the State Government for approval and, accordingly, these posts were approved by the State Government. The post of Librarian was also sanctioned and approved.



4. On 23.01.2015, an advertisement was published inviting application for various posts, including the single post of Librarian in the Institute. The advertisement prescribes that the appointment shall be on contract basis on the basis of interview only and the date of interview was also mentioned in the advertisement as on 20.02.2015. The last date of submission of application form was 06.02.2015.

5. The petitioner claimed to be Master of Library and Information Science and fulfilling the eligibility criteria for appointment, also applied for the post of Librarian, along with other candidates. Altogether eight candidates were called for interview on 20.02.2015, including the respondent no. 5, but the name of the petitioner did not figure in the list of applicants selected for the interview. Accordingly, the petitioner filed a representation on 20.02.2015 to allow him to appear in the interview. The representation of the petitioner was considered and the petitioner, along with six other candidates, were called for interview, held on 24.02.2015. All the seven candidates, including the petitioner, appeared in the interview held on 24.02.2015 for the post of Librarian, as would be evident from the attendance sheet, annexed as Annexure I to the second supplementary counter affidavit filed on behalf of respondent nos. 1 to 3. Finally,



respondent no. 5 was selected for the post of Librarian, vide appointment letter, dated 11.05.2015 (Annexure C to the counter affidavit filed on behalf of the University).

6. Learned Counsel for the petitioner, while challenging the appointment of respondent no. 5, argues that the petitioner is having the qualification of Master in Library and Information Science and has been working in the Institute since 2007 on Class-III post on contract basis and was entrusted with the work of Librarian since 12.05.2007, has been ignored for appointment as Librarian; whereas the respondent no. 5, who is less qualified than the petitioner and was working as a Peon (Class-IV post) in the Institute since 2011, was appointed as Librarian on extraneous consideration inasmuch as she is the daughter of P.A. to the Vice Chancellor of the University and was accordingly favoured by the University.

7. Learned Counsel further argues that upon perusal of the appointment letter, dated 11.05.2015, it seems that the selection has been made on the basis of the interview held on 20.02.2015 and the interview held on 24.02.2015, in which the petitioner and six others had participated, was not taken into consideration, which would be evident from the evaluation sheet, annexed as Annexure I to the second supplementary counter affidavit filed on



behalf of respondent nos. 1 to 3. Annexure-I only shows the names of the candidates, including respondent no. 5, who appeared in the interview held on 20.02.2015 and none of the candidates, who appeared in the interview on 24.02.2015, finds place in the said list. The evaluation sheet/marking sheet of the interview held on 24.02.2015 has not been brought on record by the University.

8. Learned Counsel submits that calling the petitioner, along with six others, in the interview held on 24.02.2015, was merely an eye-wash and no evaluation/marking/assessment of their merit was done.

9. Per contra, learned Counsel for the respondents-University as well as learned Senior Counsel for the respondent no. 5, argued that respondent no. 5 also fulfills the eligibility criteria for appointment on the post of Librarian, as prescribed in the advertisement, as, at the time of making application for the post of Librarian, she was having the Master in Library and Information Science. As per the terms of the advertisement, the female candidates was to be given preference.

10. The contention of the petitioner that only the interview, held on 20.02.2015, is taken into consideration, is not correct and learned counsel for the University contends that the format of appointment letter contains the date of interview and



since the respondent no. 5 was selected as per the interview held on 20.02.2015, as such, the date of 20.02.2015, is mentioned therein and if the petitioner had been appointed, the appointment letter would have mentioned the date of 24.02.2015 as the date when the petitioner had participated in the interview. The petitioner participated in the selection process and if not selected, then he cannot challenge the selection process itself.

11. In support of the argument, learned Counsel has placed reliance on the decisions of the Supreme Court, in the cases of **Madan Lal and Others v. the State of Jammu and Kashmir and Others**, reported in (1995) 3 SCC 486, **Vijendra Kumar Verma v. Public Service Commission**, reported in (2011) 1 SCC 150, and **G. Sarana v. University of Lucknow**, reported in (1976) 3 SCC 585.

12. I have heard learned Counsel for the parties concerned and have gone through the materials available on record, including the original record of appointment produced by the University, pursuant to the order, dated 09.01.2023.

13. It is evident from the record that 33 candidates had applied for the post of Librarian, pursuant to the advertisement, dated 23.01.2015, out of which, eight candidates were called for interview on 20.02.2015, including the respondent no. 5 and seven



candidates were called for interview on 24.02.2015. The attendance sheet of all the appearing candidates have been brought on record by way of second supplementary counter affidavit filed by the University (Annexure-I) and from perusal of page 173 of the brief, it appears that a sort of scrutiny was done with regard to eight candidates relating to their educational qualification and experience and accordingly, some remarks/marks were given in the scrutiny sheet. The attendance sheet of the candidates, including the petitioner, who were called for interview on 24.02.2015, merely contains their signatures on that sheet and neither scrutiny with regard to their education qualification and experience has been done on 24.02.2015 nor there is any column of remarks/marks, as in the case of seven candidates, including the respondent no. 5. The attendance sheet of 24.02.2015 only shows that the petitioner was present on the date of the interview.

14. According to the petitioner, the evaluation of the candidates, who appeared in the interview on 24.02.2015, was not done and the respondent no. 5 was selected and appointed not on the basis of *inter se* merit of the candidates, who participated in the interview.

15. This Court, at the time of argument, put a pointed query to learned Counsel for the University as well as learned



Senior Counsel for the respondent no. 5 that who were the members of the Selection Committee and how many members were there in the Interview Board, but no reply came forward from the side of the respondents and the respondents did not produce any document by way of affidavit before this Court having the name of the members of the Interview Board/Selection Committee, who conducted the interview on 20.02.2015 and 24.02.2015, respectively. The evaluation/marking done by the Interview Board/Selection Committee has also not been brought before this Court. There is no relevant document on the record of this case to show the constitution of Selection Committee/Interview Board and/or the assessment/marking done by the Interview Board during the process of interview of the respective candidates. The merit list does not contain the *inter se* merit of the candidates and their performance in the interview is also not available on the record.

16. Considering the aforesaid factual position, I am of the opinion that the selection/appointment on the post of Librarian was not done in fair manner and the contention of the petitioner is correct that the appointment of respondent no. 5 has been made for extraneous consideration.



17. The basic procedure for appointment, i.e. constitution of the Selection Committee, constitution of the Interview Board, assessment/marketing done by the Interview Board of the candidates for the purpose of deciding the *inter se* merit has also not been done. As such, the contention of the respondents that as per the advertisement, the female candidate was to be given preference is not acceptable, inasmuch as the 'preference' connotes that other thing being equal, the women candidate shall be given preference. When assessment/marketing/evaluation of the candidates have not been done by the Interview Board/Selection Committee of the respective *inter se* merit of the candidates, the plea of preference has no meaning.

18. Admittedly, on the basis of her appointment, on 11.05.2015, the respondent no. 5 has been regularized with effect from 01.01.2019, vide notification issued under memo no. WIT/D/915-919/19, dated 20.02.2019.

19. Pursuant to the order, dated 25.09.2019, the respondent no. 5 has not been working as Librarian in the Institute.

20. The decision relied upon by the respondents are also not applicable in the facts of the present case.

21. Taking into consideration the above mentioned discussion, I come to the conclusion that the contention of the



petitioner is correct that there was serious discrepancy in the process of appointment. Accordingly, the appointment of respondent no. 5, vide appointment letter, dated 11.05.2015, is not sustainable in the eyes of law and is hereby quashed. The regularization of the respondent no. 5 on the post of Librarian is also quashed, with liberty to the respondents to make fresh appointment on the post of Librarian in accordance with law and after giving opportunity to all eligible candidates.

22. In the result, this writ application is allowed.

23. Since this writ application has been disposed finally, I. A. No. 01 of 2022, filed for vacating the stay order, dated 25.09.2019, is dismissed.

24. Let the original record be returned to learned Counsel for the University.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	28-03-2023
Uploading Date	30-05-2023
Transmission Date	N/A

