

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.878 of 2019**

**In**  
**Civil Writ Jurisdiction Case No.11054 of 2014**

Indu Bala Sinha, Female, aged about 60 years, daughter of Late Sachchidanand Sinha resident of 103, Nilgiri Bhawan, West Boring Canal Road, P.S.- S.K. Puri, District- Patna, Pin- 800001.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. A.N. Sinha Institute of Social Studies, Patna through its Registrar.
3. Board of Control, A. N. Sinha Institute of Social Studies, Patna through its Chairman.
4. Chairman, A.N. Sinha Institute of Social Studies, Patna.
5. Director, A.N. Sinha Institute of Social Studies, Patna.
6. Selection Committee through the Chairman, A.N. Sinha Institute of Social Studies, Patna.
7. Dr. S.M. Diwakar, Director, A.N. Sinha Institute of Social Studies, Near Gandhi Maidan, Patna.
8. Prof. Kamta Prasad, Chairman, Board of Management, Institute of Resource Management and Economic Development, 2-B, Industrial Area, Karkardooma, Delhi- 110092.
9. Prof. Kamal Narayan Kabra, Institute of Social Sciences, 8, Nelson Mandela Road, New Delhi- 110070.

... .. Respondent/s

**Appearance :**

|                              |   |                                               |
|------------------------------|---|-----------------------------------------------|
| For the Appellant/s          | : | Mr. Abhinav Srivastava, Advocate              |
| For the State                | : | Mr. Priyadarshi Matri Sharan, A. C. to AAG 15 |
| For the A.N.Sinha Institute: |   | Mr. Lalit Kishore, Sr. Advocate               |
|                              |   | Mr. Manish Dhari Singh, Advocate              |
| For the Respondent no.7 :    |   | Mr. Anupam Chakrapani, Advocate               |

**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE PARTHA SARTHY**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)**



**Date : 25-07-2023**

1. Heard learned counsel for the parties.
2. The instant appeal has been preferred against the judgment dated 3.5.2019 passed in CWJC no.11054 of 2014.
3. The case of the writ petitioner-appellant is that vide notification dated 23.9.2009 issued by the Human Resources Development Department, Government of Bihar, the respondent no.7 was appointed as Director of A.N. Sinha Institute of Social Studies, Patna ('the Institute' in short).
4. The facts in brief are that an advertisement was published on 28.2.2013 for appointment on various posts in the Institute including the post of Professor of Economics. An email was sent by one Professor Kamta Prasad addressed to the Chairman of Board of Control ('BOC' in short) of the Institute, for consideration of respondent no.7's appointment on the post of Professor of Economics. After having obtained his willingness, the Selection Committee of the Institute in its meeting held on 27.4.2013 recommended the name of respondent no.7 for appointment as Professor of Economics. The respondent no.7 was appointed and he joined against the post on 10.5.2013. The appointment was also approved by the BOC of the Institute. Being aggrieved by the appointment of the



respondent no.7, the appellant filed CWJC no.11054 of 2014 for the following reliefs:

- “(i) Issuance of a direction, order or writ, including writ in the nature of quo warranto directing respondent no. 7 to show the authority with respect to his appointment against the post of Professor in Economics at the A.N. Sinha Institute of Social Studies, Patna (hereinafter referred to as "the Institute"), which has been done in blatant violation of the provisions contained under the A.N. Sinha Institute of Social Studies Act, 1964 (hereinafter referred to as "the Act") and the provisions contained in Clause-4 of Section-II under the A.N. Sinha Institute of Social Studies Rules of Service Conditions and in complete disregard of Article 16 of the Constitution of India;*
- (ii) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing that part of the office order dated 10/05/2013 issued by the Institute, by which respondent no. 7 has been appointed against the post of Professor in Economics at the Institute;*
- (iii) Issuance of a declaration holding that the entire exercise on part of the concerned authorities and the members of the selection committee as well as Board of Control of the Institute in appointing respondent no. 7 against the post of Professor of Economics at the Institute is highly illegal and in blatant violation of the provisions contained in Clause-4 of Section-II under the A.N. Sinha Institute of Social Studies Rules of Service*



*Conditions and Article 16 of the Constitution of India;*

*(iv) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”*

5. By judgment dated 3.5.2019 the learned Single Judge was pleased to dismiss the writ application. It is against this judgment that the instant appeal has been preferred.

6. Learned counsel for the appellant submits that the learned Single Judge failed to take into consideration that the Readers and Professors at the Institute are to be appointed through an advertisement on the basis of recommendation of a properly constituted Selection Committee. The respondent no.7 was never an applicant and in absence of any application having been made, the Selection Committee did not have the opportunity to examine his candidature. In fact, the respondent no.7 was himself continuing in the capacity of a Director of Institute and immediately after the advertisement being issued in February, 2013 letters of recommendation from respondent nos. 8 and 9 were received in favour of respondent no.7.

7. Learned counsel appearing for the respondents submitted that there is no merit in the case of the writ petitioner-appellant and all the points being raised on behalf of the appellant in the instant appeal have been considered and dealt



with in a detailed order of the learned Single Judge. There being no merit in the instant appeal, the same be dismissed.

8. Having heard learned counsel for the parties and having perused the material on record, it transpires that the Institute wherein the BOC is the Governing Body in its meeting held on 21.4.2012 decided the procedure for selection of Senior Faculty positions including Professor in Economics. In terms of the decisions the Institute came out with an advertisement on 9.2.2013 inviting applications from the candidates. It may be mentioned here itself that neither the petitioner nor the respondent no.7 were applicants against the said advertisement. So far as the powers of the BOC to make regulations is concerned, section 17 of the A.N. Sinha Institute of Social Sciences Act and Regulation 10 of the A. N. Sinha Institute of Social Sciences Regulation are being quoted herein below for ready reference:

***17. Power to make regulations:***

***The Board may make regulations consistent with this Act and the Rules made thereunder for-***

***(a) regulating the meeting of the Board and the procedure for conducting business thereat;***

***(b) determining the qualifications of officers and employees of the Board and***



*prescribing method of their recruitment;  
(c) specifying the terms and conditions  
of service of the employees appointed by  
the Board; and*

*(d) regulating the manner in  
which the advice of the consultants be  
obtained by the Board.”*

.....

**“RECRUITMENT TO POSTS**

***10. Recruitments to various posts of  
the Institute shall be made through such  
methods and on such terms and  
conditions as may be decided by the  
Board.”***

9. It may further be mentioned that clause 3C of the advertisement (Annexure-6 to writ application) for Faculty Positions at the Institute provided that candidates who do not apply for appointment of Senior Faculty Positions can be considered by the BOC at its initiative as also on recommendations even if they had not applied for . Clause 3C is produced herein for ready reference.

*“C) Even the name of those potential candidates  
who do not apply for the appointment of senior  
faculty positions can be considered by the BOC  
at its initiative and the Institute may also  
entertain applications/ recommendations of  
suitable candidates in absentia for consideration  
of the Selection Committee even if one has not  
applied for.”*



10. Further from the material on record it transpires that pursuant to the recommendation of two renowned academicians in favour of respondent no.7 on 4.3.2017, the respondent no.7 recused himself from the BOC. The Selection Committee constituted on 27.4.2013 considered and proceeded to recommend the name of respondent no.7 for his appointment as Professor of Economics and the same was accepted by the BOC in its meeting held on 10.5.2013.

11. Having taken note of the aforesaid facts, this Court is of the opinion that in view of clause 3C of the advertisement (Annexure-6) potential candidates for appointment of Senior Faculty Positions could be considered by the BOC even if one had not filed an application for the same. The respondent no.7 having recused from the BOC prior to his name being considered, his name having been considered by the Selection Committee on recommendation of the two academicians and the same having been approved by the BOC, the Court finds no illegality either in his appointment nor in the order of the learned Single Judge.

12. In the opinion of this Court, the appellant has not made out any case for grant of any relief as prayed for in the writ application nor any ground for interference in the order of



the learned Single Judge.

13. There being no merit in the instant appeal, the same is dismissed.

**(K. Vinod Chandran, CJ)**

**( Partha Sarthy, J)**

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