

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.324 of 2023

Manoj Kumar Sharma Son of Lakhan Prasad Sharma, Resident of Mohalla - Budha Colony, Ward No. 16, Post Office and Police Station - Banka, District - Banka.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Bihar State University Service Commission, Patna through its Secretary.
5. The Chairman, Bihar State University Service Commission, Patna, Bihar.
6. The Secretary, Bihar State University Service Commission, Patna, Bihar.
7. The Tilkamanjhi University Bhagalpur, through its Registrar.
8. The Voice-Chancellor, Tilkamanjhi University, Bhagalpur.
9. The Registrar, Tilkamanjhi University, Bhagalpur.
10. Kamal Kishore Mandal, Son of Gopal Mandal, At present post as Assistant Professor, P.G. Department of Ambedkar Thought and Social Work, T.M.B.U. Bhagalpur, Post Office - T.N.B. College, Police Station - Tatarpur, District - Bhagalpur, Pin Code - 812007.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nitya Nand Neeraj, Adv.
For the Respondent/s	:	Mr. Madhaw Prasad Yadaw (Gp 23) Mr. Pawan Kumar Choudhary, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 20-01-2023

1. Heard the parties.

2. The petitioner by way of this writ petition assails the appointment of respondent no.10 on the post of Assistant Professor in the subject of Ambedkar Thought and Social Work in the University of Tilkamanjhi, Bhagalpur University .



3. Learned counsel for the petitioner submits that the petitioner participated in the selection process after the interview, the commission has selected the respondent no.10 on the post. Learned counsel submits that the petitioner had to his credit M.A. degree in 2010 in first class in the subject of Ambedkar Thought and Social Work from Tilkamanjhi University, Bhagalpur and also has remained as a research scholar for P.H.D. degree from the same university.

4. The respondent no.10 was a Class IV employee in the university and while he was working as a class IV employee he has acquired a degree of M.A. from the same university and has also been granted P.H.D. degree in Ambedkar Thought and Social Work while in service. Learned counsel submits that such degree could not have been acquired by respondent no.10 as an employee of the State of Bihar or University was required to get permission from the employer for pursuing further studies and the University be asked to show as to whether permission was granted to the respondent no.10 for the said purpose and if the said permission has not been granted, the qualification should not be considered for the purpose of appointment as a Assistant Professor .

5. I have considered the submissions. The writ



petition is found to be wholly frivolous for reasons as under:-

6. Firstly, an employee of the university is not barred from pursuing further studies. There is no rule which has been brought forth by the learned counsel to show that there is any such bar for a class IV employee of the university from pursuing further studies in the same university.

7. Secondly, this Court finds that the degree awarded to the petitioner and that awarded to respondent no.10 is also from the same university and the petitioner has not objected anywhere when he appeared in the interview of respondent no.10 having acquired degrees wrongfully. The respondent no.10 has also been a P.H.D. scholar of the same university, where the petitioner has pursued his degree. No document has been produced by the petitioner to show that the respondent no.10 did not obtain any permission before pursuing regular studies. He is shooting an arrow in the dark and wants this Court to come to his aid to find out whether respondent no.10 got permission.

8. There is another aspect which this Court requires to notice is that whether the educational qualification acquired by any individual can be ignored on the ground that he has obtained that qualification without taking prior permission



from his employer.

9. In the opinion of this court, the fact of obtaining qualification cannot be denied. It is another aspect altogether whether permission was taken by the employer for doing regular studies. If permission has not been taken, the same can be only a matter between the employer and an employee to deny his promotion on the said basis but the qualification cannot be ignored by the commission for the purpose of selecting the said candidate for another post.

10. In view thereof, the selection of the respondent no.10 by the Commission cannot be objected to by the petitioner who has been unsuccessful in the selection process.

11. The writ petition is found to be wholly frivolous and is dismissed with cost of Rs. 10,000/-.

(Sanjeev Prakash Sharma, J)

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Item no.35

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