

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5197 of 2021**

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1. Ramjee Prasad Verma Son of Late Baidyanath Prasad, resident of Aashayan 106 A, Chand Chaura, Gaya, Police Station Vishnupad, District - Gaya.
2. Kavi Mohan Singh, Son of Late Shambhu Singh, resident of Ashok Nagar, Rampur, Police Station Rampur, District - Gaya.
3. Muni Kishore Singh, Son of Late Rama Prasad Singh, resident of House No. 80, Patna Gaya Line, Railway Colony, Gaya, Police Station- Delha, District - Gaya.
4. Jitendra Kumar, Son of Late Balram Prasad Singh, resident of House No. 101, Hanuman Nagar, Police Station Rampur, District - Gaya.
5. Hafiz Ruknuddin Ahmad, Son of Late Hafiz Syed Masood Ahmad, Resident of Quazi Mohalla, Police Station Sherghati, District - Gaya.
6. Amrendra Kumar Mishra, Son of Late Ranvijay Kumar Mishra, resident of L.I.G. 231, Shahid Bhagat Singh Colony, Mustafabad, Police Station Rampur, District - Gaya.
7. Raj Gopalachari Pandey, Son of Late Shankar Dayal Pandey, resident of Gobal Bigha, Painpar, Police Line Road, Gaya, Police Station Rampur, District - Gaya.
8. Om Prakash Singh, Son of Sri Kalpnath Singh, resident of Shyam Nagar Ghora Hospital, Police Station Jehanabad, District - Jehanabad.
9. Arbind Kumar Singh, Son of Late Jharkhandi Prasad Singh, resident of Village Rerama, Sri Ram Path, Road No. 13, Police Station Daltenganj, District Palamu, Jharkhand.
10. Brajesh Kumar Singh, Son of Late Suryadeo Singh, resident of Village Anewan, Police Station Kako, District - Jehanabad.
11. Arvind Kumar Mishra, Son of Madhawanand Singh, resident of Village Noawan, Police Station Shakurabad, District - Jehanabad.
12. Shiv Shankar Singh, Son of Ram Jeet Singh, resident of Village Ainwan, Police Station Kako, District - Jehanabad.
13. Vishnu Shankar, Son of Sheo Mohan Singh, resident of Quarter No. 156, Anugrahpuri Colony, Police Station Rampur, District - Gaya.
14. Lata Verma, Wife of Prof. Ranjeet Kumar Verma, Resident of House No. 69, Anugrahpuri Colony, Police Station Rampur, District - Gaya.
15. Binay Kumar Verma, Son of Sarju Prasad, resident of Gauri Sadan, near Loyola Public School, Pant Nagar, Police Station Vishnupad, District - Gaya.
16. Bishwanath Prasad, Son of Late Ram Kishore Prasad, resident of D-3/01 Barauni Refinery Township Begusarai, Police Station Thana Nagar, Begusarai, District - Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Higher Education, Vikas



Bhawan, Patna.

2. The Additional Secretary, Higher Education Department, Vikas Bhawan, Patna.
3. The Magadh University through its the Registrar, Magadh University, Bodh Gaya.
4. The Registrar, Magadh University, Bodh Gaya.
5. The Bihar State University Service Commission, Budha Marg, Patna through its Secretary.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rupak Kumar, Advocate  
Mr. Vikrant Kumar, Advocate  
For the Magadh University : Mr. Sunit Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

7 25-11-2024

The petitioners are *ad hoc* teachers working against the sanctioned post in different colleges under Magadh University. The petitioners wanted to compete the recruitment process for selection and appointment of Assistant Professors in different disciplines in different colleges.

2. It is pertinent to note that in order to ascertain the eligibility of the petitioners an Inquiry Committee was set up under the name and style of *Ad hoc* Lecturer Inquiry Committee to assess the educational qualifications and sanctioned vacant posts against which the petitioners were working. The report suggests in “तालिका सं. 10” that the petitioners were appointed as Assistant Professors on *ad hoc* basis against the sanctioned posts prior to 10<sup>th</sup> February 1989 on different dates. With regard to serial no. 21 of the said list, it is specifically opined that the said person,



namely, Hafiz Ruknuddin Ahmad who is petitioner no. 5 in the instant writ petition is permitted to appear in the selection list. Relevant column in respect of other teachers/petitioners were left vacant. However, the Committee after inquiry concluded as hereunder:-

“(सभी प्रकार के दस्तावेजों के जॉचोपरांत यह पाया गया 12) का विस्तृत विवरण उपलब्ध है। कि कुल 37 तदर्थ व्याख्याताओं (तालिका सं. 10, 11 एवं 12) का विस्तृत विवरण उपलब्ध हैं। इस 37 व्याख्याताओं की नियुक्ति 10.02.1989 के पूर्व हुई है। इनकी नियुक्ति या तो व्याख्याता नियुक्ति परिनियम, 1983 के द्वारा या व्याख्याता परिनियम, 1988 के द्वारा हुई है। इन 37 में से तालिका सं० 10 के क्रम सं० 21 हाफिज रुकनुद्दीन अहमद BET, 1997 की परीक्षा भी उत्तीर्ण है।

इसी प्रकार तालिका सं. 10 में डॉ. सतीशचंद्र पाठक के विषय में कुलसचिव द्वारा सूचित किया गया है कि वे सेवानिवृत्त हो चुके हैं जबकि फॉर्मेट में कार्यरत दिखाया गया है। इससे प्रतीत होता है कि कुलसचिव कार्यालय तथा प्राचार्य द्वारा भी तदर्थ व्याख्याताओं के फॉर्मेट में दी गयी सूचना का सही ढंग से जाँच नहीं हुई। कुल 37 तदर्थ व्याख्याता न्यूनतम अहर्ता को पूरा करते हैं। लेकिन तालिका सं. 10 में दिए गए 22 तदर्थ व्याख्याताओं के बारे में सूचना दी गई कि वे खाली स्वीकृत पदों पर कार्यरत थे जिन्हें बाद में हटा दिया गया। इस तालिका के 22 तदर्थ व्याख्याताओं की नियुक्ति प्राचार्य द्वारा की गई है किन्तु यह नियुक्ति राज्यपाल सचिवालय के पत्रांक सं. 155/OSD/GS(I) दिनांक 21.12.1984 तथा मगध विश्वविद्यालय के अधिसूचना सं० 586/G-1 दिनांक 08.05.1986 के द्वारा की गयी है। व्याख्याताओं की कमी को



ध्यान में रखते हुए राज्यपाल सचिवालय का निर्देश था कि स्वीकृत खाली पदों पर तदर्थ व्याख्याता रखे जा सकते हैं। अतः स्पष्ट है की यह सभी 22 तदर्थ व्याख्याता नियमानुसार कार्यरत थे। तालिका सं. 11 में क्रम सं. 01 डॉ. संजय कुमार सिंह, स्वीकृत पद पर कार्यरत थे, जबकि इस तालिका में अन्य 13 तदर्थ व्याख्याता के संबंध में स्वीकृत पद संबंधित कोई सूचना नहीं है। तालिका सं. 11 (13 तदर्थ व्याख्याता) तथा 12 (01 तदर्थ व्याख्याता) अतः इन 14 तदर्थ व्याख्याताओं की नियुक्ति स्वीकृत रिक्त पद पर हुई अथवा नहीं? इस सन्दर्भ में विश्वविद्यालय ने कोई सूचना नहीं दी। विश्वविद्यालय को अंतिम पत्र 31- 20(R) दिनांक 09.06.2020 के द्वारा सूचना मांगी गयी लेकिन अद्यतन कोई सूचना नहीं है। इन सबो की नियुक्ति प्राचार्य द्वारा की गई है तथा कुलसचिव द्वारा जाँच समिति को उनकी नियुक्ति अनुसंधित की गयी है। अतः स्पष्ट है मगध विश्वविद्यालय में तदर्थ व्याख्याताओं की वास्तविक स्थिति के अनुसार तालिका सं. 10 जाँच के सभी शर्तों को पूरा करता है और नियुक्ति सही प्रतीत होता है।

तालिका सं. 11 (13 तदर्थ व्याख्याता) तथा 12 (01 तदर्थ व्याख्याता) की भी सभी सूचनाएँ सही प्रतीत होती है परन्तु वे स्थायी पद पर नियुक्त थे, इसकी कोई सूचना नहीं है।

(इस जाँच समिति को यह दायित्व दिया गया था कि वे 10.02.1989 तक नियुक्त तदर्थ व्याख्याताओं की अर्हता , आवश्यक योग्यता और स्वीकृत पद आदि की सत्यता की जाँच करें। समिति ने जाँच कर स्थिति रिपोर्ट तैयार किया है। उपरोक्त तदर्थ व्याख्याताओं की स्थिति रिपोर्ट (Status Report) के रूप में प्रस्तुत की जा रही है। तदर्थ व्याख्याताओं की जाँच समिति सर्वसहमति से इस रिपोर्ट को आज 10.07.2020 को अनुमोदित करती है और समिति के चेयरमैन से आग्रह करती है कि वे जाँच रिपोर्ट को अपर मुख्य सचिव, शिक्षा विभाग के पास जमा करने की कृपा करेंगे।)”



3. The learned Advocate appearing on behalf of the petitioners also refers to Annexure 9 of the rejoinder filed on behalf of the petitioners wherein petitioner no. 5 was given age relaxation in respect of taking part in the selection process as Assistant Professor only to contend that other petitioners being on the same footing are also entitled to have age relaxation. He also refers to a decision of the Hon'ble Supreme Court in ***Civil Appeal Nos. 1601-1602 of 2004 (Veer Kunwar Singh University Ad hoc Teachers Association and Others Vs. The Bihar State University (C.C.) Service Commission & Others)*** decided on ***18<sup>th</sup> May 2007***. In the aforesaid case also, the issue which came up for consideration before the Hon'ble Supreme Court is as to whether the appellants being the ad hoc teachers in different subjects under the University were entitled to have age relaxation for regularization. The Hon'ble Supreme Court held in paragraph 46 which runs thus:-

*“We therefore, are of the opinion that the interest of justice would be subserved if it is directed that the respondents herein in filling up of the vacant posts must take into consideration the cases of all those teachers also who have the requisite qualifications, upon relaxation of age, if permissible by law along with other eligible candidates. We may,*



*however, direct that it would be open to the State of Bihar as also the concerned Universities to forthwith terminate the services of those teachers not working against sanctioned posts or who do not fulfill the requisite educational qualifications or whose services are otherwise not required.”*

4. The second part of the above order is not applicable for our case. In the instant case, we are concerned only if the petitioners are entitled to get age relaxation for their taking part in the selection process of regular Assistant Professors.

5. There was a specific direction on 26<sup>th</sup> September 2024 that the Bihar State University Service Commission would file counter-affidavit in the instant case, asserting their stand. However, in spite of service of notice, Bihar State University Service Commission did not appear to file their counter-affidavit.

6. Learned counsel appearing on behalf of Magadh University is present. It is frankly submitted by the learned Advocate appearing on behalf of the Magadh University that the ultimate call in this regard is to be taken by the Bihar State University Service Commission, therefore, Magadh University does not have anything to say though, they have filed counter-affidavit.

7. Having heard the learned counsel appearing on behalf of the parties and on careful perusals of the entire materials on record



and specially relying upon the aforesaid judgment of the Hon’ble Supreme Court, this Court is of the view that the petitioners who were appointed as *Ad hoc* Assistant Professors against the sanctioned posts are eligible for age relaxation to take part in the selection process of Assistant Professors in the colleges run by Magadh University.

8. The commission is directed to allow the petitioners to take part in the on-going selection process.

9. Accordingly, the instant writ petition is disposed of with above order.

**(Bibek Chaudhuri, J)**

Suraj Dubey/-

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