

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2676 of 2023

Vibha Kumari Wife of Sri Anil Kumar Prasad, presently residing at Village - Pakri P.S. Ara, Nawada, District - Bhojpur, Permanent resident of Indrapuri Road No. 10, Ratu Road, District Ranchi, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. The Bihar State University Service Commission, 8th floor, Bihar School Examination Board Building, Academic Bhawan, Budha Marg, Patna through its Chairman.
4. The Chairman, Bihar State University Service Commission, 8th floor, Bihar School Examination Board Building, Academic Bhawan, Budha Marg, Patna.
5. The Secretary, Bihar State University Service Commission, 8th floor, Bihar School Examination Board Building, Academic Bhawan, Budha Marg, Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Prabhat Ranjan, Advocate
For Respondent Nos.3 to 5 :		Ms. Prachi Pallavi, Advocate
For the State	:	Mr. Madhukar Mishra, AC to SC-16

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

Date : 21-08-2024

Heard Mr. Prabhat Ranjan, learned counsel for the petitioner and Ms. Prachi Pallavi, learned counsel for the respondent Nos.3 to 5.

2. The petitioner has put to challenge the decision contained in Letter No. 145 dated 19.01.2023 by the Bihar State University Service Commission / Respondent Nos. 3 to 5 (for short 'Commission'), insofar as it relates to the petitioner



in Serial No. 709, whereby the petitioner's candidature for the post of Assistant Professor (Psychology) has been disqualified. Also put to challenge is the decision contained in Letter No. 173 dated 20.01.2023 issued by the Commission insofar as the Commission has refused to call the petitioner to attend the interview programme for the post of Assistant Professor.

3. The case set up by the petitioner in the writ petition is that the petitioner had applied for the post of Assistant Professor Psychology pursuant to advertisement dated 21.09.2020 issued by the Commission by submitting online as well as offline applications. The petitioner contends that when it had come to the knowledge of the petitioner that her candidature has been rejected by the impugned information dated 19.01.2023 issued by the Commission that the petitioner's candidature, who was declared provisionally eligible subject to submission of 1. UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. as per the advertisement 2. certificates of B.A. and M.A. have been rejected for non-submission of UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. as per the advertisement, the petitioner had duly submitted the requisite documents once again to the respondent-Commission.



The manner in which the requisite documents of the petitioner was submitted by the petitioner, has been stated in paragraph 12 of the writ petition by the petitioner as under :

“12. That the petitioner, on getting knowledge of the fact that her application has not been considered for the want of certain documents, duly submitted the requisite documents once again to the respondent as demanded in the aforementioned notice.”

4. Elaborating on the averments made by the petitioner in paragraph 12 of the writ petition, learned counsel for the petitioner has submitted that when the requisite documents were demanded by the Commission, the petitioner had submitted the requisite documents demanded hand to hand in the office of the Commission.

5. The further contention of the petitioner is that though the petitioner's candidature for the post of Assistant Professor Psychology has been disqualified / rejected, yet the Commission has allowed some of the candidates of the other departments to appear in the interview, who did not submit the requisite documents. The persons, who have been alleged to have allowed to participate in the interview by the Commission



even without submission of the requisite documents, however, have not been made party respondent in the writ petition.

6. Insofar as not making the party respondent to the candidates, who have been allowed by the Commission to appear in the interview, who did not submit the requisite documents, learned counsel for the petitioner contends that they are not required to be made party as they belong to different department and they will not be affected by the order passed in the instant writ petition.

7. The respondent-Commission has contested the case by filing a counter affidavit, wherein it contends that the petitioner was made provisionally eligible subject to submission of UGC Regulation 2009 Certificate and Registration Certificate of Ph.D. as per the advertisement. However, the petitioner did not submit the UGC Regulation 2009 Certificate and Registration Certificate of Ph.D. and, therefore, the petitioner was disqualified and not called for the interview. The respondent-Commission in the counter affidavit further contends that the Commission had granted an opportunity to the petitioner to submit UGC Regulation 2009 Certificate and Registration Certificate of Ph.D. by the petitioner, but the petitioner did not submit the aforesaid



required documents and so her candidature was rejected by the Commission vide the impugned information / letter No. 145 dated 19.01.2023.

8. After hearing the learned counsels for the parties and on perusal of materials available on record, it is noticed that the respondent-Commission had issued an advertisement dated 21.09.2020 inviting applications for filling up of various posts of Assistant Professors including 424 posts of Assistant Professor (Psychology). In the writ petition, the petitioner has annexed the aforesaid advertisement as Annexure 1. It may be mentioned here that though the petitioner has annexed as Annexure 1, the advertisement dated 21.09.2020, but by the said Annexure the petitioner has not enclosed the terms and conditions of the advertisement dated 21.09.2020 issued by the Commission. The entire set of advertisement including the terms and conditions contained therein has been filed by the respondent-Commission in the counter affidavit, which has been annexed as Annexure A to the counter affidavit.

9. Clause 11.1 of the advertisement dated 21.09.2020 reads as under :

“11.1 The candidates will download the conclusively filled online application form from the dashboard and in the hard copy mark their



signature in blue ink ball pen, in both Hindi and English, at the place specified for it, while also taking care that their signature on the hard copy should match that given in the online application form. After this, the candidates should send the downloaded hard copy of the application form, enclosing all required certificates/documents/degree, duly self-attested, to Bihar State University Service Commission, B.S.E.B Academic Building, 8th Floor, Buddh Marg, Patna-800001, through Registered Post/Speed Post ONLY, so as to reach Commission office on or before 24.11.2020 till 05 PM. The candidates should clearly write on the envelope Post Applied For, Name of the Subject, Unique ID, and Advertisement No. In no case the application will be accepted hand-to-hand. If the downloaded hard copy of the application form along with self-attested Xerox copies of required certificates/documents/degrees are not received in the commission office until the specified date/time, the application of the candidate will not be considered finally filled, and his online application may be rejected. The Candidates should attach self-attested Xerox copies of the following certificates in the given order-

I. Matriculation Certificates (for proof of age)



II. Domicile Certificate issued by competent authority (for candidates claiming reservation)

III. Caste Certificate issued by competent authority (for candidates claiming reservation)

IV. Non-Creamy Layer (for BC I and BC II) certificate (for candidates claiming reservation)

V. Economically backward certificate for candidates of General category (for candidates claiming reservation)

VI. Certificate of being grandson/Granddaughter of Freedom Fighter (for candidates claiming reservation)

VII. Certificate of Physical Disability (for candidates claiming reservation)

VIII. If Ph.D. degree holder before 11.07.2009, the certificate regarding five points issued by the competent authority.

IX. Certificates regarding point 6.6./6.9 of the online portal.

X. Graduation Degree

XI. Graduation mark sheet

XII. Post graduation Degree

XIII. Post graduation mark sheet

XIV. NET/BET certificate

XV. The formula for conversion of Grade Point/letter Grade/CGPA into percentage



XVI. Letter of Registration and degree of Ph.D Degree holders registered before 11.07.2009 but awarded the degree later on.

XVII. Letter of registration, Ph.D Degree & Certificate on the pattern of point (viii) by Ph.D Degree holders awarded, degree after 11.07.2009 but registered during the period of 11.07.2009 till the implementation of UGC regulation 2009 in the universities of Bihar.

XVIII. Ph.D. Degree of those who have been awarded Ph.D. under 2009 Regulation.

XIX. Research articles (maximum five)

XX. Certificate of teaching experience.

XXI. Post-Doctoral experience Certificate

XXII. Academic Award certificate (National/International)

XXIII. Academic Award certificate (State Level)

10. The petitioner has not enclosed the entire set of the advertisement dated 21.09.2020 containing the terms and conditions thereof including clause 11.1. The petitioner thus has suppressed the material facts while filing the writ petition. The writ petition, therefore, could have been dismissed on the ground of suppression of material facts itself, which this Court



refrains from doing so in the interest of doing justice to the grievances raised by the petitioner in the writ petition.

11. Reading of clause 11.1 of the advertisement shows that the candidate is required to download the conclusively filled online application form from the dashboard and in the hard copy mark their signature in blue ink ball pen, in both Hindi and English, at the place specified for it by taking care that their signature on the hard copy matches with the signature given in the online application form. Thereafter, the candidate is required to send the downloaded hard copy of the application form, enclosing all required certificate/document/degree, duly self-attested, to the Bihar State University Service Commission, B.S.E.B. Academic Building, 8th Floor, Buddh Marg, Patna-800001, through Registered Post/Speed Post only, so as to reach the Commission office or on before 24.11.2020 till 05 PM. It further provides that no application will be accepted hand-to-hand, making it very clear that the downloaded hard copy of the conclusively filled online application form with the signature of the candidate, both in Hindi and English, in blue ink is sent to the Commission only through Registered Post/Speed Post. It further provides that if the downloaded hard



copy of the application form along with the self-attested xerox copies of required certificates/documents/degrees are not received in the Commission office on or before 24.11.2020 till 05 PM, the application of the candidate will not be considered finally filled and his online application may be rejected. Clause 11.1 (XVIII) provides that the candidate is required to submit Ph.D. Degree of those who have been awarded Ph.D. under 2009 Regulation.

12. The petitioner appears to have not submitted his Ph.D. certificate. The Commission, however, did not reject the application of the petitioner outrightly as provided in the advertisement but issued an important information dated 24.12.2022 (Annexure 3 to the writ petition), wherein it has been stated that out of 2115 online applications received for the post of Assistant Professor (Psychology), only 1845 hard copies of the online applications have been received and the remaining 270 candidates, who had filed online applications, the hard copy of the same have not been received. By the same important information, the Commission vide clause 4 insofar as the petitioner is concerned at Serial No.1217 was provisionally declared to be eligible subject to submission of 1. UGC Regulation 2009 Certificate and Registration Certificate



regarding Ph.D. as per the advertisement 2. certificates of B.A. and M.A.

13. The case of the petitioner is that the petitioner on getting to know of the fact that her application has not been considered for want of certain documents, she had once again submitted the requisite documents.

14. It appears that the petitioner contends that she had submitted requisite documents once again after she was provisionally declared eligible subject to submission of Ph.D., B.A. and M.A. certificates vide important information dated 24.12.2022 issued by the Commission. The respondent-Commission in the counter affidavit filed denies that the petitioner had submitted her UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. even after she was granted an opportunity to submit the aforesaid certificates. No rejoinder has been filed by the petitioner to the counter affidavit filed by the respondent Commission denying that the petitioner had submitted UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. The manner, in which the petitioner contends to have submitted the requisite documents on coming to know about the fact that her application has not been considered, is to be found in the



averments made by the petitioner in paragraph 12 of the writ petition, which has already been quoted hereinabove.

15. On perusal of the averments made in paragraph 12 of the writ petition, it appears that the petitioner only contends that on getting knowledge of the fact that her application has not been considered for want of certain documents, the petitioner had duly submitted the requisite documents once again to the respondent Commission as demanded in the notice. The petitioner does not specify as to on which date the UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. was submitted to the Commission after she was provisionally declared eligible vide important information dated 24.12.2022 issued by the Commission. No proof of submission of UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. after the important information dated 24.12.2022 was issued by the Commission, has been filed along with the writ petition, except to make a statement in paragraph 12 of the writ petition that the petitioner had submitted requisite documents as demanded.

16. The petitioner, therefore, has failed to place before this Court adequate evidence to come to a finding that the petitioner had in fact submitted her UGC Regulation 2009



Certificate and Registration Certificate regarding Ph.D. to the Commission after the important information dated 24.12.2022 was notified by the Commission.

17. Under the circumstances and in the light of categorical denial by the Commission in the counter affidavit that the petitioner did not submit her UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D., this Court cannot but hold that the petitioner failed to submit her UGC Regulation 2009 Certificate and Registration Certificate regarding Ph.D. to the Commission as per the opportunity provided by the Commission vide important information dated 24.12.2022.

18. In view of the conclusion reached hereinabove and in the light of the fact that Ph.D. Degree of those, who have been awarded Ph.D. under 2009 Regulation was required to be submitted, which the petitioner failed to submit in the instant case as prescribed in the advertisement as well as by the Commission in the subsequent information notified on 24.12.2022, no fault can be found in the impugned information dated 19.01.2023 disqualifying/rejecting the candidature of the petitioner for the post of Assistant Professor (Psychology) and consequential information dated 20.01.2023 dropping the name



of the petitioner from appearing in the interview for the post of Assistant Professor (Psychology) pursuant to advertisement dated 24.12.2022.

19. Accordingly, the writ petition is hereby dismissed being devoid of merit.

(Nani Tagia, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	22.08.2024
Uploading Date	N.A.
Transmission Date	N.A.

