

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4558 of 2023

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Noorafshan Bano Daughter of Haji Muhammad Qusim, Resident of Mohalla-Hajinagar, Mithanpura Chowk, Post Office-Ramana, Police Station-Mithanpura, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Government of Bihar, Patna.
2. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
3. The Principal Secretary, Department of Education, Government of Bihar, Patna.
4. The Secretary, Bihar Public Service Commission, Patna.
5. The Joint Secretary-cum-Examination Controller Bihar Public Service Commission, Patna.
6. The Vice Chancellor, Maulana Mazharul Haque Arabic and Persian University, Patna.
7. The Registrar, Maulana Mazharul Haque Arabic and Persian University, Patna.
8. Jayanti Kumari, Daughter of Surendra Prasad, Permanent resident of Mohalla-Jaleshwar Ward No. 6, District-Mahottary, State-Madhesh (Nepal). At present wife of Kanchan Kumar, Resident of Mohalla-Maripur Power House Chowk Tilak Nagar, District-Muzaffarpur (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Ranvijay Narain Singh, Advocate Mr. Saroj Kumar Singh, Advocate Mrs. Rabia Gulnaj, Advocate
For the Respondent/s	:	Mr. Manish Kumar (Gp4) Mr. Manoj Kumar, AC to GP-4
For the University	:	Mr. Rashid Izhar, Advocate
For the Resp. No. 8	:	Ms. Anukriti Jaipuriyar, Advocate Mr. Abhinav Ashok, Advocate Mr. Aayush Abhishek, Advocate Mr. Rajnikant Kumar, Advocate
For the BPSC	:	Mr. Sanjay Pandey, Advocate Mr. Nishant Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT
Date : 31-08-2024

Heard learned counsel for the parties.

2. By means of this writ petition, the petitioner has put to challenge the selection of the respondent No. 8 on the post of Assistant Professor in Maulana Mazharul Haque Arabic and Persian University, Patna pursuant to Advertisement No. 78 of 2014 in the subject of Management on the ground that the respondent No. 8, being the citizen of Nepal, is not entitled to be selected as Assistant Professor in the category reserved for Extremely Backward Class.

3. The petitioner also prays for a direction to the Respondent Authorities to appoint the petitioner as Assistant Professor in the subject of Management in Maulana Mazharul Haque Arabic and Persian University, Patna pursuant to the Advertisement No. 78 of 2014, in the category of Extremely Backward Class, the post which has been filled up by the respondent No. 8.

4. Pursuant to Advertisement No. 78 of 2014 issued by the Bihar Public Service Commission/respondent No. 4 for filling up of *inter alia* four posts of Assistant Professor in the subject of Management in Maulana Mazharul Haque Arabic and Persian University, Patna, a combined merit list was published (annexure-3 to the writ petition) wherein the petitioner's name appears at Sl.

No. 5 of the combined merit list whereas the respondent No. 8 was placed at serial No. 3 of the combined merit list.

5. On the basis of the aforesaid combined merit list, a select list dated 27.07.2022 was prepared by the Bihar Public Service Commission, selecting four candidates from the combined merit list for appointment as Assistant Professor in the subject Management which was recommended to the Government for its appointment. In the select list dated 27.07.2022, the respondent No. 8 has been placed at serial No. 3. Thereafter the respondent No. 8 was appointed on 24.11.2022 as Assistant Professor, Management subject in the Maulana Mazharul Haque Arabic and Persian University, Patna, pursuant to which the petitioner joined on 26.11.2022.

6. The petitioner has filed this writ petition challenging the selection of the respondent No. 8 contending *inter alia* that the respondent No. 8, being a citizen of Nepal, couldn't have been selected and placed at serial No. 3 of the select list in the category of Extremely Backward Class.

7. The respondents have filed counter affidavits contesting the case filed by the petitioner.

8. Learned counsel for the respondent No. 8, however, informs that the respondent No. 8 has tendered her resignation

from the post of Assistant Professor, Management subject on 27.05.2023 which was accepted by the Authority on 27.07.2023 with effect from 29.08.2023. The fact that the resignation of the respondent No. 8 from the post of Assistant Professor, Management subject has been accepted by the Competent Authority with effect from 29.08.2023 has not been disputed by the advocates appearing for the University as well as the State.

9. Since the respondent No. 8 has tendered her resignation from the post, which has been accepted by the Competent Authority with effect from 29.08.2023 and resultantly a post of Assistant Professor, Management subject in the Maulana Mazharul Haque Arabic and Persian University, Patna has fallen vacant, I am of the view that this writ petition can be disposed of, without entering into the merits of the contentions raised against the respondent No.8, by directing the respondent State as well as the University to consider appointment on a post that has fallen vacant due to the resignation of the respondent No. 8 from the combined merit list published pursuant to advertisement No. 78/2014 for the post of Assistant Professor, Management in the Maulana Mazharul Haque Arabic and Persian University, Patna, in accordance with law.

10. It is ordered, accordingly.

11. The consideration, in accordance with law, as directed hereinabove shall be made within a period of one month from the date of receipt of the certified copy of the order.

12. The writ petition is disposed of with the above direction.

(Nani Tagia, J)

Nishant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.09.2024.
Transmission Date	NA