

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10339 of 2022

Dr. Shashi Gupta Wife of Anand Kumar, Resident of Golghar, Park Road, District-Patna, presently Residing at House of Nagendra Singh (Jailor), Mukhtar Toli (Near Bata Showroom), Nala Road, P.S.-Kadamkuan, District-Patna 800003.

... .. Petitioner/s

Versus

1. The Bihar State University Service Commission 8th Floor, Bihar School Examination Board, Academic Building, Bhudh Marg, Patna-800001 through its Secretary.
2. The Secretary, The Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Bhudh Marg, Patna-800001.
3. The Patna University through its Registrar.
4. The Vice Chancellor, Patna University, Patna.
5. Rakesh Ranjan son of Shiv Shankar Prasad Yadav, Resident of Golghar, Park Road, P.S.-Gandhi Maidan, District-Patna.
6. The State of Bihar Through the Principal Secretary Education Department, Bihar.
7. The Directorate, Mass Education, cum Secretary Bihar State Literacy Mission Authority, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Satyabir Bharti, Sr. Advocate Mr. Prince Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Y. V. Giri, Sr. Advocate Mr. Pranav Kumar, Advocate
For the State	:	Mr. Kameshwar Kumar, GP-17 Mr. Amit Bhushan, AC to GP-17
For the BSUSC	:	Mr. Harsh Singh, Advocate
For the PU	:	Mr. Ajay, Advocate

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 29-08-2024

Heard Mr. Satyabir Bharti, learned senior counsel and
Mr. Prince Kumar Mishra, learned counsel for the petitioner, Mr.
Y. V. Giri, learned senior counsel for the respondent No. 5, Mr.

Ajay, learned counsel for the Patna University, Mr. Harsh Singh, learned counsel for the Bihar State University Service Commission and Mr. Amit Bhushan learned counsel for the State.

2. This writ petition has been filed by the petitioner with the following prayers :

"...(i) For issuance of writ in the nature of Certiorari, quashing the result dated 23/06/2022 of Rural Study Subject of Advertisement No.AP-RURA-45/20-21, issued by the Bihar State University Service Commission, whereby and whereunder, private respondent Rakesh Ranjan (Respondent No.5) has been selected for the single post of Assistant Professor in Rural Studies Subject by submitting incorrect experience certificate and thereby enhancing his marks for teaching experience, which is absolutely illegal and arbitrary.

(ii) For issuance of a writ in the nature of Mandamus, directing and commanding upon the respondent authorities/ private respondent to produce the experience certificate issued by Patna University, Patna, after award of PhD the month of January 2019 in terms of Clause 5.4 of the Advertisement read with clause 7. & 5.4.

(iii) For issuance of a writ in the nature of Mandamus, directing and commanding upon the respondent authorities, to produce the marks obtained by petitioner and Private Respondent No.5

in the selection process as per clause 7.2 of the advertisement and as well as in the interview.

(iv) For issuance of a writ in the nature of Mandamus, directing and commanding upon the respondent authorities, to declare the name of petitioner as successful candidate for the post of Assistant Professor, Rural Studies (Advertisement No.AP-RURA-45/20-21), issued by the Bihar State University Service Commission..."

3. The facts leading to filing of the present writ petition, briefly stated, are as follows:-

3.1 According to the writ petitioner, as per the advertisement dated 21.09.2020 inviting application for filling up the post of Assistant Professor, Rural Studies, Bihar State University Service Commission/ respondent Nos. 1 & 2 (for short "the Commission") had prescribed the selection criteria under clause 7.2 of the advertisement as under:

S. No.	Academic Record	Score			
1.	Graduation	80% & Above=15	60% to less than 80%=13	55% to less than 60%=10	45% to less than 55%=5
2.	Post-Graduation	80% & Above=25	60% to less than 80%=23	55% (50% in case of SC/ST/BC-I (non-creamy layer)/BC-II (non-creamy layer) (PWD) to less than = 20	
3.	Ph.D	30			
4.1	NET with JRF	07			

4.2	NET	05	
4.3	SLET/SET	03	
5	Research Publication (2 marks for each research publication published in Peer-Reviewed or UGC-listed Journals)	10	
6.	Teaching/Post Doctoral Experience (2 marks for one year each)#	10	
7.	Awards		
7.1	International/National Level (Awards given by International Organisation/Government of India recognised National Level Bodies)	03	
7.2	State-Level (Awards given by State Government)	02	

4. Three candidates applied for the post of Assistant Professor, Rural Studies viz. Petitioner, Respondent No. 5 and one Ripunjay Kumar. In the selection made by the Commission, on the basis of the selection criteria prescribed as above, the marks obtained by the three candidates were as follows:

Academic (100 marks)	Rakesh Ranjan	Dr. Shashi Gupta	Ripunjay Kumar
Ph.D.	30	30	30
PG	23	23	23
UG	10	13	5
NET	-	5	-
Research/Publication	10	10	10
Teaching Experience	10	10	10
Total	83	91	78
Interview (15 Marks)			
	14	5	10
Final (Academic + Interview)	97	96	88

5. The final marks obtained by the respondent No. 5 being 97 and that of the petitioner and another candidate Ripunjay Kumar being 96 and 88 respectively, the respondent No. 5 was selected vide the impugned selection dated 23.06.2022. The petitioner challenges the selection of the respondent No. 5 on the ground that the respondent No. 5 did not have the five years teaching experience and, therefore, the respondent No. 5 could not have been awarded 10 marks (2 marks each for one year) under the heading "teaching experience" and accordingly, the respondent No. 5 could not have secured 97 marks for his selection as Assistant Professor, Rural Studies.

6. According to the petitioner, the respondent No. 5 was awarded 10 marks under the heading "teaching experience" on the basis of teaching experience certificate submitted by the respondent No. 5 dated 24.07.2020, issued by the Professor In-charge, Department of Rural Studies, Patna University, wherein it was certified that the respondent No. 5 has been teaching in the P. G. Department of the Rural Studies as guest faculty from 10.01.2011 till the date of issuance of the certificate. The petitioner contends that the respondent No. 5 passed his Pre-Ph.D. registration test on 18.01.2015 in the subject of Rural Studies and thereafter completed his Ph.D. degree in January, 2019. According to the petitioner, as per the clause 5.4 of the advertisement, the time taken by the candidate to acquire Ph.D. degree is not to be considered as teaching/research experience, to be claimed for appointment to the teaching position. The petitioner, accordingly, contends that since the respondent No. 5 was pursuing his Ph.D. from the year 2015-2019, neither the period from 2015-2019 can be considered as the experience gained by the petitioner under the teaching experience for claiming appointment to the teaching positions nor the respondent No. 5 could have been appointed as part time teacher for teaching in the University prior to his obtaining Ph.D. in the year 2019. The respondent No. 5, thus,

according to the petitioner, therefore, could not have been a guest faculty from 10.01.2011 till the issuance of certificate dated 24.07.2020 by the Professor In-charge, Department of Rural Studies, Patna University so as to have the requisite teaching experience for awarding of 10 marks under the heading "teaching experience" as per the selection criteria prescribed under the advertisement.

7. The respondent Nos. 1 and 2/ the Commission has filed a counter affidavit pursuant to the order of this Court dated 07.05.2024, in which counter affidavit it has been stated that the application form along with the requisite documents and certificates submitted by the petitioner and the respondent No. 5 was scrutinized, which was found to be in order and accordingly, on the basis of the documents and certificates submitted by the petitioner as well as the respondent No. 5, the marks were awarded to both the candidates as well as the individual performance of the each candidates during the interview by the experts.

8. A supplementary counter affidavit by the respondent Nos. 3 and 4/ University has been filed in compliance of the order dated 08.08.2023 passed by this Court. In the supplementary counter affidavit filed, a copy of the enquiry report by the Vice Chancellor dated 21.08.2023 has been annexed.

9. The State of Bihar represented by the Principal Secretary, Education Department and the Director of Mass Education-cum-Secretary, Bihar State Literacy Mission Authority, Patna was added as respondent No. 6 and 7 respectively by an order of this Court dated 15.09.2023. By the order dated 15.09.2023, this Court had directed the Director, Mass Education-cum-Secretary, Bihar State Literacy Mission Authority, Patna to file a short affidavit to apprise the Court as to whether the petitioner, who was stated to be working as consultant in the Directorate of Mass Education, Jan Shiksha Nideshalaya on contract basis in Akshar Aanchal Yojana, was possible for the petitioner to take classes in the Patna University.

10. The respondent No. 7 has filed a counter affidavit in compliance of the order dated 15.09.2023 passed by this Court. In the counter affidavit filed by respondent No. 7, the fact which was directed to be brought on record as to whether it was possible for the petitioner to take classes in the Patna University while she was working as consultant in the Directorate of Mass Education was not clearly discernible and the same was evasive. The Court, therefore, rejected the affidavit filed by the respondent No. 7 by an order dated 27.09.2023. The respondent No. 7 was again directed to file a comprehensive affidavit in order to fully assist the Court

in arriving at a conclusion as to whether the petitioner could have worked at both the places.

11. Pursuant thereto the respondent No. 7 has filed a supplementary counter affidavit, wherein, while explaining the nature of work the petitioner was required to undertake as consultant on contract basis in the Directorate of Mass Education has stated in paragraph-6 that there is no bar for the petitioner for working elsewhere, while working as consultant.

12. The respondent No.5 has filed a counter affidavit; reply to the third supplementary affidavit by the petitioner; I.A. No. 2 of 2023 and reply to the supplementary counter affidavit by the respondent Nos. 3 and 4. The main defense of the respondent No. 5, however, is stated to be the paragraph Nos. 5, 6, 7, 8, 9 and 10 of the counter affidavit. The paragraph Nos. 5, 6, 7, 8, 9 and 10 of the counter affidavit by the respondent No. 5 is reproduced hereinbelow:-

"...5. That with regard to the statement made in para 18 of the writ application under reply, it is submitted that the same is incorrect and denied. In fact, the writ petitioner has tried to mislead this Hon'ble Court that the respondent no. 5 has claimed experience from 10.01.2021. On the contrary, from the Annexure-P7, Pg. 90, it is evident that the respondent no. 5 has been teaching in the PG Department of Rural Studies (Rural Management and Development as Guest Faculty from 10.01.2011 till today) and therefore, he is entitled for marks against the teaching experience from 2011 onwards, not including the period under which the respondent no. 5 has completed his Ph.D course. The teaching experience marks has been awarded in accordance with law and on the

basis of valid and legal certificate issued by the competent authority of the Department and countersigned by the Registrar of the University.

6. That with regard to the statement made in para 19 of the writ application under reply, it is submitted that the same is a matter of record and requires no comments. However, it is relevant to mention here that the marks against the teaching experience have been awarded by the interview board after deducting the period from 18.01.2015 to January 2019, and therefore, the petitioner has been awarded 10 marks against 5 years of teaching experience. As per the calculation, and the experience certificate issued by the University, the respondent no. 5 has a teaching experience of 9.5 years out of which 3.5 years has been deducted for the Ph.D. period and the total teaching experience for award of marks is 6 years. As per the advertisement, the maximum period allowed for taking benefit of teaching experience is 5 years, against which a maximum of 10 marks, two for each year was prescribed. Accordingly, the respondent no. 5 was allowed 10 marks against the teaching experience of 5 years in accordance with the conditions stipulated in the advertisement by the Commission.

7. That with regard to the statement made in para 20 of the writ application under reply, it is submitted that on the representation submitted by the petitioner on 28.06.2022, a detailed enquiry appears to have been conducted by the Bihar State University Service Commission. Through letter no. 1131 dated 12.09.2022 the Commission informed the Director Higher Education, Education Department, that an experience certificate bearing ref. no. R507/02 was verified from the Registrar of the Patna University through letter no. G/1753 dated 26.10.2021. It was informed by the Registrar of the Patna University that the education certificate relating to teaching experience have been issued by the Department of Rural Studies, Patna University and countersigned by the Registrar of the Patna University. The said letter was also communicated to the petitioner; but this fact has not been disclosed by the writ petitioner in her writ petition who has concealed such a relevant fact and in doing so has not approached this Hon'ble Court with clean hands. Further, the letter dated 12.09.2022 itself, certifies the correctness and genuineness of the experience certificate issued by the competent authority based on which 10 marks, were awarded to respondent no. 5 against teaching experience.

8. That with regard to the statement made in paras 21, 23 & 25 of the writ application under reply, it is submitted that misplaced reliance has been placed on clause 5.4 of the advertisement by the petitioner. For the ease of reference, clause 5.4 is being quoted hereunder below:

"5.4 The time taken by candidate to acquire M. Phil. and/or Ph.D. degree shall not be considered as teaching research experience to be claimed for appointment to the teaching positions. Further the period of active Service spent on pursuing Research Degree Simultaneously with teaching without taking leave will be considered as experience for the purpose of direct recruitment."

From a bare reading of clause 5.4 of the advertisement, it is evident that the period prescribed under which the Ph.D. course has been undertaken shall not be considered as teaching experience for awarding marks. Further, nowhere does clause 5.4 bar/prohibit that the teaching experience gained prior to the Ph.D. from being taken into consideration for awarding marks against teaching experience. In fact, the very object of incorporating clause 5.4 in the advertisement is to clarify that only the period under which the Ph.D. has been done will not be considered against teaching experience and that the period before Ph.D. and after completion of Ph.D. will be considered. Accordingly, through though the respondent has teaching experience of 9.5 years, the total period of teaching experience of respondent no. 5 was considered as 6 years for the purpose of appointment.

The writ petitioner has wrongly interpreted clause 5.4 of the advertisement to mean that the experience gained prior to the Ph.D. would not be taken into consideration for awarding marks against the teaching experience. In fact, nowhere in clause 5.4 a bar is created for giving marks against the teaching experience gained prior to the Ph.D. In fact, the writ petitioner has interpreted the clause 5.4 in her favour without understanding the actual meaning of clause 5.4 and the purpose for which it has been incorporated. Further, it is a settled proposition under the law that any condition laid down in the advertisement has to be primarily read literally to infer the intent of the author of the text, and substitution of another intention through purposive or any other interpretation is not permissible.

9. That with regard to the statement made in para 22 of the writ application under reply, it is submitted that the same is incorrect and denied. Marks have been done in accordance with the conditions stipulated in the advertisement. In fact, the experience certificate was also verified by the Commission from the Registrar Patna University and the certificate was found to be correct and genuine which was duly certified by the Registrar of the University. Thus, it is wrong to state that the respondent no. 5 has been granted marks incorrectly against teaching experience.

10. That with regard to the statement made in para 23 of the writ application under reply, it is submitted that the same is incorrect and denied. Clause 7.2 does not lay down any criteria to the extent that the teaching experience will only be awarded after the completion of Ph.D. degree. The writ petitioner by making these incorrect submissions is trying to mislead this Hon'ble Court by giving a distorted and farfetched interpretation of clause 7.2 of the advertisement which is completely silent about the manner prescribed for awarding marks against teaching experience. In fact, column 3 of clause 7.2 only states Ph.D. and against which 30 marks has been mentioned. Therefore, the statement made in para 23 is baseless and unfounded..."

13. Arguments have been advanced by the learned advocates for the contesting parties.

14. By referring to the pleadings of the report dated 21.08.2023 by the Vice Chancellor of the Patna University submitted pursuant to the order of this Court, learned counsel for the petitioner has argued that the respondent No. 5 could not have been awarded 10 marks under the heading "teaching experience" of the selection criteria and accordingly the selection of respondent No.5 by the Commission is vitiated and the same is liable to be set aside and quashed.

15. The learned counsel for the Commission has submitted that the selection was made in accordance with the selection criteria prescribed in the advertisement on the basis of the certificates/documents submitted by the candidates along with the application forms. Marks under each of the heading of the selection criteria was awarded on the basis of the certificates/documents submitted by the candidates which were found to be in order by the Commission and, therefore, the Commission has not committed any illegality or irregularity in the selection made.

16. Learned counsel for the University has contended that as per direction of this Court the University has submitted its enquiry report dated 21.08.2023 by the Vice Chancellor which is self explanatory.

17. Learned State Counsel representing respondent Nos. 6 and 7 has argued that as per the direction of this Court, the respondent No.7 has filed an affidavit informing this Court that there was no bar for the petitioner to work elsewhere while working as a consultant on contract basis in the Directorate of Mass Education.

18. Learned senior counsel for the respondent No. 5 by referring to the pleadings made by the parties as well as the

enquiry report dated 21.08.2023 submitted by the Vice Chancellor pursuant to the order of this Court has argued that the petitioner has not established his legal right to be appointed as Assistant Professor, Rural Studies.

18.1. Learned senior counsel for the respondent No. 5 by referring to two enquiry reports, namely, dated 05.08.2023 by the three men committee appointed by the Vice Chancellor and the 2nd set of enquiry by the same three men enquiry committee dated 19.08.2023 has argued that there are serious disputed questions of facts as to which enquiry reports is to be believed.

18.2. The learned senior counsel, therefore, contended that in a case of this nature where there is a serious disputed questions of facts, this Court should not proceed to adjudicate the writ petition involving the disputed questions of facts under Article 226 of the Constitution of India.

18.3. Learned senior counsel has further argued that awarding a mark by the selection authority pertains to the domain expert and accordingly this Court should not venture into adjudication on the correctness of the marks awarded to the petitioner as well as the respondent No. 5 by the Commission which has been done through the domain expert. Inasmuch as this Court does not have the expertise to go into the merits of the

marks awarded to the petitioner as well as the respondent No. 5 by the experts.

18.4. Learned senior counsel finally submitted that the petitioner has filed this writ petition by suppressing the fact that the petitioner was working as a consultant on contract basis under the Directorate, Mass Education. The petitioner, according to the learned senior counsel, therefore, has not approached this Court with clean hand and the writ petition, therefore, is liable to be dismissed.

19. In support of the aforesaid contention, learned senior counsel has relied on the following decisions of the Hon'ble Supreme Court:-

(i) ***Sajeesh Babu K. v. N.K. Santhosh***, reported in ***(2012) 12 SCC 106*** paragraph Nos. 17, 20 and 23:

"...17. To strengthen the above proposition, it is useful to refer to a decision of the Constitution Bench of this Court in University of Mysore v. C.D. Govinda Rao [AIR 1965 SC 491] . The issue therein relates to one Anniah Gowda to show cause as to under what authority he was holding the post of a Research Reader in English in Central College, Bangalore. After considering the pleadings of both the parties, consultation by an expert and the stand of the university, this Court set aside the order of the High Court and dismissed the writ petition filed by the respondent therein. While considering the said issue, the following conclusion of the Constitution Bench as to the opinions expressed by the experts and interference by the Court is relevant. It is seen that in para 13 of the judgment, the Constitution Bench has noted that the High Court has criticised the report made by the Board and

rejecting the criticism of the High Court in such academic matters, held as under: (AIR p. 496)

“13.... We are unable to see the point of criticism of the High Court in such academic matters. Boards of Appointments are nominated by the universities and when recommendations made by them and the appointments following on them are challenged before courts, normally the courts should be slow to interfere with the opinions expressed by the experts. There is no allegation about mala fides against the experts who constituted the present Board; and so, we think it would normally be wise and safe for the courts to leave the decisions of academic matters to experts who are more familiar with the problems they face than the courts generally can be.”

20. It is clear that in a matter of appointment/selection by an Expert Committee/Board consisting of qualified persons in the particular field, normally, the courts should be slow to interfere with the opinions expressed by the experts, unless there is any allegation of mala fides against the experts who had constituted the Selection Committee. Admittedly, in the case on hand, there is no allegation of mala fides against the three experts in the Selection Committee. In such circumstances, we are of the view that it would normally be wise and safe for the courts to leave the decision of selection of this nature to the experts who are more familiar with the technicalities/nature of the work. In the case on hand, the Expert Committee evaluated the experience certificates produced by the appellant herein, interviewed him by putting specific questions as to direct sale, home delivered products, hospitality/service industry, etc. and awarded marks. In such circumstances, we hold that the High Court ought not to have sat as an appellate court on the recommendations made by the Expert Committee.

23. In the light of the above discussion, we set aside the judgment of the learned Single Judge of the High Court dated 16-3-2011 in N.K. Santhosh v. Bharat Petroleum Corpn. Ltd. [N.K. Santhosh v. Bharat Petroleum Corpn. Ltd., WP (C) No. 7622 of 2010, order dated 16-3-2011 (Ker)] as

well as the judgment of the Division Bench dated 6-4-2011 in Sajeesh Babu v. N.K. Santhosh [Writ Appeal No. 464 of 2011, order dated 6-4-2011 (Ker)] and confirm the decision of the Selection Committee.."

(ii) ***Basavaiah (Dr.) v. Dr. H.L. Ramesh***, reported in

(2010) 8 SCC 372 paragraph 21:

"...21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, the experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture..."

(iii) ***Sanjay Sitaram Khemka v. State of Maharashtra***,

reported in ***(2006) 5 SCC 255*** paragraph 8 and 9:

"...8. Having regard to the allegations and counter-allegations made by the parties before us, we are of the opinion that no relief can be granted to the petitioner in this petition. The writ petition has rightly been held by the High Court to be involving disputed questions of fact. The petitioner has several causes of action wherefor he is required to pursue specific remedies provided therefor in law.

9. A writ petition, as has rightly been pointed out by the High Court, for grant of the said reliefs, was not the remedy. A matter involving a great deal of disputed questions of fact cannot be dealt with

by the High Court in exercise of its power of judicial review. As the High Court or this Court cannot, in view of the nature of the controversy as also the disputed questions of fact, go into the merit of the matter; evidently no relief can be granted to the petitioner at this stage. We are, therefore, of the opinion that the impugned judgment of the High Court does not contain any factual or legal error warranting interference by this Court in exercise of its jurisdiction under Article 136 of the Constitution..."

(iv) ***Shubhas Jain v. Rajeshwari Shivam***, reported in ***(2021) 20 SCC 454*** paragraph 25:

"... 25. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable...."

20. I have heard learned counsel appearing for the contesting parties and also perused the materials on record.

21. Upon hearing the learned counsel for the contesting parties and on perusal of the materials on record there is no dispute that the Commission had issued an advertisement dated 21.09.2020 inviting the application for various posts of Assistant Professor including one post of Assistant Professor, Rural Studies. Three candidates including the petitioner and the respondent No. 5

had applied for the post of Assistant Professor, Rural Studies and the respondent No. 5 was selected vide the impugned Notification No. BSUSC/Vid.-55/2021-761, Patna dated 23.06.2022 issued by the Secretary, Bihar State University Service Commission. The respondent No. 5 scored 97 marks and the petitioner scored 96 marks. The petitioner is challenging the selection of the respondent No. 5 on the ground that the respondent No. 5 does not have the required teaching experience entitling him to be awarded 10 marks under the heading "teaching experience" as per the selection criteria prescribed under Clause 7.2 of the advertisement which has already been quoted hereinabove.

23. The respondent No. 5 was awarded 10 marks under the heading "teaching experience" on the basis of certificate submitted by the petitioner dated 24.07.2020 issued by the Professor In-Charge, Department of Rural Studies, Patna University, certifying that the respondent No. 5 has been teaching in the P.G. Department of Rural Studies as guest faculty from 10.01.2011 till date.

24. For ready reference, the certificate of teaching experience issued by the Professor In-Charge, Department of Rural Studies, Patna University dated 24.07.2020 is reproduced hereinbelow.

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Mob: 9431077580
9471867111

Annex - ~~XV~~ XVI

DEPARTMENT OF RURAL STUDIES
(Rural Management & Development)
PATNA UNIVERSITY, DARBHANGA HOUSE, PATNA - 800 005

Ref. No. RS/02/02

Date: 24/07/2020

To Whom It May Concern

This is to certify that Dr. Rakesh Ranjan has been teaching in the P.G. Department of Rural studies (Rural Management & Development) as guest Faculty from 10.01.2011- till date. He is valuable resource of our department. Dr. Rakesh is a very sincere, hardworking, multifaceted personality. I have observed a consistent growth in his innovative teaching style.

I wish him success and good luck in his future.

Sunita Roy
24.7.2020
Dr. Sunita Roy
Professor-in-Charge
Deptt. of Rural Studies (RM&D)

Received
Sunita Roy
28/10/2020
Professor-in-Charge
Deptt. of Rural Studies
(Rural Management & Development)
Patna University

Received
Patna University
28/11/2020

Ry 24/7/19/8/23
19.08.2023

25. It appears that the Patna University had initiated some enquiry in the matter which would be evident from the proceeding held on 20.07.2023 wherein learned Advocate for the Patna University had made a request for posting of the writ petition on 25.07.2023 to enable him to find out the result of the enquiry.

26. When the matter was listed on 25.07.2023, this Court had passed the following orders :

"...Heard learned counsel for the petitioner, learned counsel for the Patna University, learned senior counsel for the respondent no. 5 and learned counsel for the Bihar State University Service Commission.

The teaching experience certificate issued to the private respondent no. 5 is under challenge at the instance of the petitioner. It is being claimed that respondent no. 5 has submitted a fake certificate showing that he is engaged in teaching work since 10.01.2011 in the P.G. Department of Rural Studies (Rural Management and Development) as Guest Faculty.

Learned counsel for the petitioner has taken this Court through various documents available on the record to submit that respondent no. 5 has done post-graduation only in July 2014, therefore his teaching as a faculty since 10.01.2011 is not possible by any stretch of imagination. In this regard, he has relied upon Annexure 'P/14' (running page 130 of the

third supplementary affidavit filed on behalf of the petitioner).

Learned counsel has also relied upon the information furnished by the Department of Rural Studies under Right to Information Act vide reference No. RS/708/22 dated 25.07.2022 and Annexure P/11 to the second supplementary affidavit of the petitioner wherein it has been informed that as per the departmental records, the letter vide reference no. RS/07/02 dated 28.10.2020 has not been issued by the department, therefore, no xerox copy of the same may be made available.

Mr. Ajay, learned counsel representing the University has submitted with reference to the statements made in the counter affidavit filed on behalf of the University that a preliminary enquiry has already been ordered in the matter and the University has very seriously taken this issue, and if, it would require further action, then, the same would be taken.

As prayed on behalf of the University, this Court directs listing of this matter on 8th of August, 2023 under the same heading maintaining it's position.

The Vice-Chancellor of Patna University shall constitute a committee of experts or as may be advised to him as a fact finding committee as regards the existence and contents of the documents within three days from today. The committee shall examine the matter and submit an appropriate report to the Vice-Chancellor within one week thereafter. The report of the Committee shall be examined by the Vice-Chancellor and based on that appropriate stand shall be taken on the next date..."

27. By the aforesaid order dated 25.07.2023 this Court had directed the Vice Chancellor of the Patna University to constitute a Committee of the experts as a Fact Finding Committee to find out the existence and contents of the documents/teaching experience certificate issued to the respondent No. 5 within three days. The Committee so constituted was directed to examine the matter and submit a report to the Vice Chancellor within one week. The Vice Chancellor was then directed to examine the report and based on that appropriate stand be taken on the next date.

28. The respondent No. 5, thereafter, filed I.A. No. 02 of 2023 seeking modification/recall of the order dated 25.07.2023 passed in the writ petition. The I.A. No. 02 of 2023 was taken up on 08.08.2023, on which date this Court had passed the following orders:

"...This application has been filed on behalf of Respondent No. 5 seeking modification/recall of the order no. 6 dated 25.07.2023 passed in this case.

2. Mr. Y.V. Giri, learned Senior Counsel for the Respondent No. 5 submits that by order dated 25.07.2023, this Court has, while taking note of the stand of the Patna University (hereinafter referred to as the 'University') directed the University to constitute a Fact Finding Committee of experts as regards the existence and contents of the documents i.e. the teaching experience of the Respondent No. 5. The Vice-Chancellor of the University has been called upon to examine the report of the Committee and take appropriate stand before this Court accordingly.

3. Learned Senior Counsel submits that he has made an alternative prayer in the interlocutory application. He would be satisfied if the alternative prayer of the

Respondent No. 5 be considered and an appropriate order be passed modifying the earlier order dated 25.07.2023.

4. Attention of this Court has been drawn towards the statements made in paragraph '13' of the interlocutory application wherein it is inter-alia stated that "... If at all a committee for examination of the correctness of the certificate issued in favour of Respondent no. 5 is to be constituted then the said committee should also examine the certificate which has been issued in favour of the writ petitioner because it has been granted by the Professor Incharge/Department of Rural Studies namely Late Govind Kumar who has given the experience certificate since July 2001 to 26 June 2021 whereas he himself was appointed in the month of June 2003. ..."

5. Learned counsel for the petitioner submits that he would have no objection if the University examines the teaching experience certificate of the petitioner as well.

6. Mr. Ajay, learned Advocate representing the Patna University submits that in terms of the order of this Court, the Fact Finding Committee has to examine the existence and contents of the document but presently after going through the report of the Committee, he has noticed that the Fact Finding Committee has not examined the contents of the document, therefore, he would not rely upon the report presently available with him. His stand is that the Vice-Chancellor of the University shall act in terms and spirit of the order of this Court and a complete report with regard to existence and contents of the documents shall be obtained from the Fact Finding Committee whereafter the Vice-Chancellor shall take an appropriate decision at the earliest opportunity.

7. Having considered the submissions of the parties, in view of the stand taken by the learned counsel for the petitioner, this Court directs the Vice-Chancellor, Patna University to obtain a report as to existence and contents of the teaching experience certificate which the petitioner has produced and the Committee shall now examine the teaching experience certificate of both the petitioner as well as the Respondent No. 5.

8. In terms of the order dated 25.07.2023, the Vice-Chancellor shall examine the report of the Fact Finding Committee and based on that, appropriate stand shall be taken on the next date.

9. Before this Court parts with this record, it is made clear that on the next date, the Vice-Chancellor is not expected to delay the whole exercise on any ground whatsoever.

10. The report together with the stand of the Vice-Chancellor must be placed before this Court on affidavit on or before 22nd August, 2023, failing which the

Vice-Chancellor, Patna University shall be obliged to appear in-person to explain his conduct.

11. Both the parties and all other concerned shall co-operate in course of inquiry.

12. I.A. No. 2 of 2023 stands disposed of.

13. List this matter on 22nd August, 2023 under heading 'For Admission' at 02:15 P.M. within top ten cases..."

29. By the aforesaid order dated 08.08.2023, the Vice Chancellor of the Patna University was directed to obtain the report regarding existence and contents of the teaching experience certificate not only of the respondent No. 5 but also of the petitioner. The Vice Chancellor was further directed to examine the report of the Fact Finding Committee in terms of the order dated 25.07.2023 and to take a stand on the next date based on the report of the Fact Finding Committee. The report, together with the stand of the Vice Chancellor was directed to be placed before the Court by filing an affidavit on or before 22.08.2023.

30. Since the Vice-Chancellor of the Patna University has now been directed to obtain report regarding existence and contents of the teaching experience certificate submitted by not only the respondent No. 5 but also the petitioner vide order dated 08.08.2023, the teaching experience certificate submitted by the petitioner which is dated 29.10.2020 issued by the Professor In-charge, Department of Rural Studies, Patna University is also reproduced hereinbelow for ready reference and perusal:



DEPARTMENT OF RURAL STUDIES

(Rural Management & Development)

PATNA UNIVERSITY, DARBHANGA HOUSE, PATNA - 800 005

Rel. No. : RS/001/2020

Ref. No.

Date : 29.10.2020

Date :

TO WHOM IT MAY CONCERN

This is to certify that **Dr. Shashi Gupta** Daughter of Sri Mohan Prasad Gupta had been taken Classes as Visiting/Guest Faculty in (Subject) Rural Studies, Department of Rural Studies (RM&D), Patna University, Patna and has imparted teaching during under mentioned periods, from July, 2001 to 26th June, 2019.

(Reference : Patna University Notification/Letter No : G/1401 dated 25/06/99.)

Registrar
Patna University

Head/Principal/Director
Professor-in-Charge
Dept. of Rural Studies
(Rural Management & Development)
Patna University

Received
Shashi Gupta
29/10/2020
:- 9472240600

Received

29/10/2020
Professor-in-Charge
Dept. of Rural Studies
(Rural Management & Development)
Patna University

Registrar
Patna University

19/10/20
15/08/23

31. In compliance of the order dated 08.08.2023, respondent Nos. 3 and 4 have filed a supplementary counter affidavit, wherein, the report of the Vice-Chancellor, Patna University has been enclosed. The report of the Vice-Chancellor, Patna University is dated 21.08.2023 which is reproduced hereinbelow for ready reference:

Prof. (Dr.) Girish Kumar Choudhary VICE CHANCELLOR Patna University, Patna	 Estd. 1917	PATNA UNIVERSITY PATNA - 800 005, (Bihar) Tel.: 0612 - 2670352 (O) 0612 - 2678041 (R/O) Tel.: 0612 - 2660225 (R) vc@patnauniversity1917@gmail.com vo@patnauniversity.ac.in
Ref. 160/PUVC	REPORT	Date: 21-08-2023
<u>In compliance of the order of the Hon'ble Patna High Court in CWJC 10339/2022</u> On the basis of documents available in the Department and report submitted by the Fact Finding/ Enquiry Committee relating to the teaching experience certificate of Dr Rakesh Ranjan and Dr Shashi Sharma, the undersigned has concluded as follows: [A] Dr Rakesh Ranjan has submitted the experience certificate from 10.01.2011 to 24.07.2020, but there is no evidence available for engaging classes by him from 10.01.2011 to 2014. However, from January 2015 to 24.07.2020 Dr Rakesh Ranjan has engaged the classes in the Rural Studies and honorarium was paid to him. From July 2015 to Dec 2018, he was also Ph.D. Research Scholar in the Department and completed his Ph.D. work in December 2018. During the Ph.D. work he continued to engage classes. [B] Dr Shashi Gupta has submitted the experience certificate from July 2001 to 29.10.2020, but there is no evidence available for engaging classes by her from 2001 to 2007. In the year 2001 she was not having Master Degree which she completed in 2003. However from 2007 to 29.10.2020 Dr Shashi Gupta has engaged the classes and honorarium was paid to her.  (Girish Kumar Choudhary) Vice Chancellor		
Residence : V. C. Lodge , Patna College Campus, Patna - 800 005 (Bihar), Ph.: 0612-2678041 (R)		

32. The report of the Vice-Chancellor dated 21.08.2023, submitted on the direction of the Court dated 08.08.2023, which is stated to be based on the documents available in the Department and the report submitted by the Fact Finding/Enquiry Committee constituted to find out the existence and contents of the teaching experience certificate submitted by the respondent No. 5 and the petitioner, have not been challenged either by the respondent No. 5 or the petitioner.

33. On perusal of the report dated 21.08.2023 submitted by the Vice-Chancellor, insofar as the respondent No. 5 is concerned, it has been found that there is no evidence available for engaging classes by the respondent No. 5 from 10.01.2011 to 2014. The consequential effect of the above would be that the respondent No. 5 does not have the teaching experience for the period 10.01.2011 to 2014 and, accordingly, no marks could have been awarded to the respondent No. 5 for the aforesaid period under the heading "teaching experience" as per the selection criteria provided under Clause 7.2 of the advertisement dated 21.09.2020. Insofar as the period from January, 2015 to 24.07.2020, it has been found that though the respondent No. 5 had engaged the classes in Rural Studies and honorarium was also paid to him, but the respondent No. 5, from July, 2015 to

December, 2018, was also a Ph.D. scholar in the Department of Rural Studies and he completed his Ph.D. work in December, 2018. Clause 5.4 of the advertisement dated 21.09.2020 provides that the time taken by the candidate to acquire M.Phil and Ph.D. degree shall not be considered as teaching/research experience to be claimed for appointment to the teaching positions. In view of Clause 5.4 of the advertisement dated 21.09.2020 though the respondent No. 5 may have been engaged to take classes in the Rural Studies from January, 2015 to 24.07.2020 since the respondent No.5 has been found to be a Ph.D. scholar from July, 2015 to December, 2018, no marks could have also been given to the respondent No. 5 under the heading "teaching experience" for the period 2015-2018, in view of the specific prohibition contained under Clause 5.4 of the advertisement to the effect that the time taken by the candidate to acquire M.Phil/ Ph.D. degree shall not be considered as teaching/research experience to be claimed for appointment to the teaching positions.

34. Insofar as the petitioner is concerned, it has been found in the report of the Vice-Chancellor that the petitioner has submitted the experience certificate from July, 2001 to 29.10.2020, but there is no evidence available for engaging classes by him from 2001-2007. It has, however, been found that from 2007 to

29.10.2020, the petitioner has engaged the classes and honorarium was paid to her.

35. In view of the above findings recorded in the report dated 28.01.2023 by the Vice-Chancellor, Patna University, it appears that the marks under the heading "teaching experience" was awarded to the respondent No. 5 on the basis of certificate dated 24.07.2020 issued by the Professor In-charge, Department of Rural Studies, Patna University certifying that the respondent No. 5 has been teaching in the P.G. Department, Rural Studies as guest faculty from 10.01.2011 till the issuance of the certificate and the petitioner was awarded marks under the heading "teaching experience" on the basis of the certificate dated 29.10.2020 issued by the Head/Professor In-charge, Department of Rural Studies, Patna University certifying that the petitioner has imparted teaching from July, 2001 to 26.06.2019. Both the certificates submitted by the respondent No.5 as well as the petitioner are found to be inaccurate as per the report dated 21.08.2023 submitted by the Vice-Chancellor, Patna University. It, therefore, appears that the Commission had awarded the marks to the respondent No. 5 as well as the petitioner under the heading "teaching experience" on the basis of inaccurate teaching

experience certificates submitted by the respondent No. 5 as well as the petitioner.

36. Under the circumstances, since the marks under the heading "teaching experience" was awarded on the basis of inaccurate teaching experience certificates submitted by the respondent No. 5 as well as the petitioner, I am of the considered view that ends of justice would be met, if the respondent Commission is directed to award marks under the heading "teaching experience" to the respondent No. 5 as well as the petitioner on the basis of the findings recorded in the report dated 21.08.2023 by the Vice-Chancellor, Patna University which has already been discussed in Paragraph Nos. 33 & 34 of this order and prepare the result of the selection for the post of Assistant Professor, Rural Studies in terms of the Clause 7.2 of the advertisement dated 21.09.2020.

37. It is hereby ordered, accordingly.

38. Needless to say, the selection of the respondent No. 5 vide the impugned selection result dated 23.06.2022 and the subsequent appointment of the respondent No. 5 as Assistant Professor, Rural Studies shall be subject to the fresh result that may be published by the Commission as directed above.

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

(Nani Tagia, J)

Nishant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2024.
Transmission Date	NA