

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10670 of 2024

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Dr. Alok Kumar Singh Son of Shri C.P. Singh, Resident of Lower Vidyapeeth
Nagar, Kanke Road, P.S.- Kande, Ranchi, Jharkhand.

... .. Petitioner

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 Principal Secretary, Department of Education, Government of Bihar, Patna.
4. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
5. Bihar State University Service Commission, through the Chairman, 8th Floor, BSEB Building (ADMIN Block), Budh Marg, Patna, Bihar.
6. The Secretary, Bihar State University Service Commission, 8th Floor, BSEB Building (ADMIN Block), Budh Marg, Patna, Bihar.
7. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 10576 of 2024

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1. Ram Krishna Kumar Son of Late Ram Shankar Singh, Resident of Village and P.O.- Kubouli Ram, P.S.- N.H. Bangra, District- Samastipur, Bihar-848131.
2. Sushil Kumar Sinha, son of Om Narayan Sinha, Resident of Village- Pakhisarai, P.S.- Kahalgaon, District- Bhagalpur, Bihar-813205.
3. Md. Ataur Rahman, Son of Md. Islamuddin, Resident of Village- Balwa, Ward No. 13, P.O.- Panikamal, P.S.- Amdabad, District- Kaimur, Bihar-854112.

... .. Petitioners

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar State University Service Commission, through the Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
4. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar

School Examination Board, Academic Building, Buddha Marg, Patna-800001.

- 5. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
- 6. The Controller of Examination, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 10589 of 2024

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Kumari Vandana Wife of Hemant Kumar, Resident of West of Choudharein Mandir, Shyam Nandan Road, Nayatola, P.S. Kazi Mohammadpur, District-Muzaffarpur, Bihar-842001.

... .. Petitioner

Versus

- 1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
- 2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
- 3. The Bihar State University Service Commission through the Secretary, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
- 4. The Chairman, Bihar State University Service Commission, 8th floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
- 5. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
- 6. The Controller of Examination, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 10749 of 2024

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Maheshwar Prasad Yadav S/o-Jibachh Yadav Resident of Sarswati Niwas Flat No.406, Road No.12, Manoharpur Kachhuara, P.S.kadamkuan, District-Patna.

... .. Petitioner

Versus

- 1. The State of Bihar through Principal Secretary Department of Higher

- Education, Govt. of Bihar, Patna.
2. The Chairman, Bihar State University Service Commission, Patna, Bihar.
 3. The Secretary, Bihar State University Service Commission, Patna.
 4. The Chairman, University Grant Commission, New Delhi.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 10670 of 2024)

For the Petitioner/s : Mr. Vikash Kumar Pankaj, Advocate
For the Respondent/s : Mr. P.K. Shahi, Advocate General
Ms. Anukriti Jaipuriyar, RC to AG
For the BSUSC : Mr. Tuhin Shankar, Advocate

(In Civil Writ Jurisdiction Case No. 10576 of 2024)

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
For the BSUSC : Mr. Tuhin Shankar, Advocate
For the Respondent/s : Mr. P. K. Shahi, Advocate General
Ms. Anukriti Jaipuriyar, RC to AG

(In Civil Writ Jurisdiction Case No. 10589 of 2024)

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
For the Respondent/s : Mr. Standing Counsel 21
Ms. Nutan Kumari Sharma, AC to SC-21
For the BSUSC : Mr. Tuhin Shankar, Advocate

(In Civil Writ Jurisdiction Case No. 10749 of 2024)

For the Petitioner/s : Mr. Majid Mahboob Khan, Advocate
For the Respondent/s : Mr. Prashant Pratap, GP-2
For the BSUSC : Mr. Rakesh Kumar Singh, Advocate
For the UGC : Mr. Amarendra Nath Verma, SC to UGC

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 23-07-2024

Heard learned counsels for the parties.

2. These four sets of writ petitions have been filed by the petitioners challenging the notification dated 26.06.2024, issued by Bihar State University Service Commission, hereinafter referred as "Commission", whereby the applications of the petitioners submitted pursuant to the advertisement dated 21.09.2020, issued by the Commission for the post of Assistant Professor, Mathematics have been rejected on the ground that the five point

criteria Certificate concerning the Ph.D. have not been signed by the Registrar or Dean (Academic Affairs) of the University as provided in Clause 4.1(ii) of the advertisement dated 21.09.2020 which prescribes for essential educational qualification.

3. Clause 4.1(ii) of the advertisement dated 21.09.2020 issued by the Commission in so far it is relevant, reads as under which has been reproduced hereinbelow:

***4.1(ii)** Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC or the CSIR, or a similar test accredited by the UGC, like SLET/SET or who are or have been awarded a Ph.D. Degree in accordance with UGC Regulations 2009 or 2016 and their amendments from time to time, as the case may be, shall be exempted from NET/SLET/SET But regarding recognition of SLET/SET the provision of UGC Regulation 2018 shall be valid.*

Provided further that the candidates registered for Ph.D. programmes prior to July 11, 2009 shall be governed by the provisions of the then existing Ordinance /By-laws/Regulations of the institution awarding the degree and such candidates shall be exempted from the requirement of NET/SET/SLET for appointment in universities/ colleges/institutions subject to fulfillment of the following conditions:

(a) The Ph.D. Degree of the candidate has been awarded in a regular mode;

(b) The Ph.D. Thesis has been evaluated by at least two external examiners;

(c) An open Ph.D. Viva Voce of the candidate has been conducted;

(d) The Candidate has published two research papers from his / her Ph.D. work, out of which at least one is in a referred journal;

(e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences /Seminars sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.

The fulfillment of these conditions is to be certified by the Registrar or Dean (Academic Affairs) of the University.

4. On perusal of Clause 4.1(ii) of the advertisement dated 21.09.2020 it appears that the candidates who have not qualified the National Eligibility Test conducted by the UGC or the CSIR or a similar test accredited by the UGC can also participate for the post of Assistant Professor, provided that such a candidate is a holder of the Ph.D. Degree in accordance with UGC regulations 2009 or 2016 and the amendments made from time to time as the case may be. Provided further that the candidates registered for UGC programmes prior to July 11th, 2009 shall be governed by the provisions of the then existing ordinance/ bylaws/ regulations of the institution awarding the degree subject to fulfillment of the following five conditions:

(a) The Ph.D. Degree of the candidate has been awarded in a regular mode;

(b) The Ph.D. Thesis has been evaluated by at least two external examiners;

(c) An open Ph.D. Viva Voce of the candidate has been conducted;

(d) The Candidate has published two research papers from his / her Ph.D. work, out of which at least one is in a referred journal;

(e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences /Seminars

sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.

5. The fulfillment of the above five conditions is required to be certified by the Registrar / Dean (Academic Affairs) of the University.

6. The bone of contention in these batch of writ petitions is that the five point criteria certificate concerning the Ph.D. degree submitted by the petitioners have not been signed by the Registrar / Dean (Academic Affairs) of the concerned University as provided in Clause 4.1(ii) of the advertisement.

CWJC No. 10670 of 2024

7. The Ph.D. five point criteria Certificate submitted along with application by the petitioner in CWJC No. 10670 of 2024 is dated 30.08.2017, issued by the Ranchi University, Ranchi (at Pg. 59 of the writ petition) which is found to have been signed by the Vice Chancellor/ Pro Vice Chancellor of the Ranchi University as well as controller of the examination, Ranchi University, Ranchi.

8. It is the case of the petitioner that the petitioner has now submitted his Ph.D. five point criteria certificate on 14.05.2024 which certificate is dated 04.05.2024 and signed by the Registrar, Ranchi University, Ranchi. Accordingly, his candidature

may be accepted by the commission on the basis of the aforesaid certificate dated 04.05.2024, signed by the Registrar, Ranchi University, Ranchi and submitted to the Commission on 14.05.2024, within the time allotted for objection.

CWJC No. 10749 of 2024

9. It is the case of the petitioner that the petitioner has submitted the Ph.D. certificate dated 18.11.2024 along with the application issued by the Magadh University, Bodh Gaya signed by the Registrar, Magadh University, Bodh Gaya as well as the controller examination, Magadh University, Bodh Gaya.

10. The aforesaid Ph.D. certificate of the petitioner, however, does not contain the five point criteria certificate as provided in Clause 4.1(ii) of the advertisement dated 21.09.2020. The petitioner now contends that he has submitted yet another Ph.D. certificate issued by the Magadh University on 14.05.2024 (at Pg. No. 85 of the writ petition) signed by the Dean, Head of the Mathematics Department, Magadh University, Bodh Gaya, indicating fulfillment of the five point criteria. On the strength of the aforesaid certificate dated 14.05.2024 submitted on 15.05.2024 before the Commission, the petitioner contends that his candidature may be accepted for appearing in the interview for the post of Assistant Professor, Mathematics.

CWJC No. 10576 of 2024

11. The Ph.D. five point criteria certificate of the petitioner No. 1, namely, Ram Krishna Kumar (at Pg. 59 of the writ petition) is dated 07.06.2019 issued by the Sido-Kanhu Murmu University, Dumka and signed by the Pro Vice-Chancellor. The Ph.D. five point criteria certificate of the petitioner No. 2, namely, Mr. Sushil Kumar Sinha (at page No. 61), issued by the Sido-Kanhu Murmu University, Dumka is dated 13.08.2020 which is signed by the Pro Vice-Chancellor; and the Ph.D. five point certificate of the petitioner No. 3, namely, Md. Aatur Rahman issued by the Sido-Kanhu Murmu University, Dumka is dated 19.09.2020 signed by the Pro Vice-Chancellor (at page No. 62 of the writ petition).

12. It is the case of the petitioners that the petitioner No. 1 and 2 has submitted their Ph.D. five point criteria certificate issued by the Sido-Kanhu Murmu University, Dumka on 06.05.2024 (at page No. 94 and 96, respectively) and signed by the Registrar, Sido-Kanhu Murmu University, Dumka to the Commission on 10.05.2024 before the last date of objection. The Ph.D. five point criteria certificate of the petitioner No. 3 issued by

the Sido-Kanhu Murmu University, Dumka is dated 22.12.2022 (at page 99) which is signed by the Registrar of the Sido-Kanhu Murmu University, Dumka and submitted to the Commission on 05.05.2024.

13. In the instant writ petition the petitioners contend that their candidature for the post of Assistant Professor, Mathematics in terms of the advertisement dated 21.09.2020 be accepted on the basis of the aforesaid Ph.D. five point criteria certificate submitted by them after the cut off date prescribed in the advertisement.

CWJC No. 10589 of 2024

14. The petitioner has submitted the Ph.D. eleven point criteria certificate issued by the Registrar dated 11.11.2014 (Annexure:P4 of the writ petition at page No. 62). The certificate has been issued by the Registrar of which University, is not discernible from the certificate itself. The case of the petitioner is that the petitioner had submitted a Ph.D. five point criteria certificate issued by the Registrar, Sido-Kanhu Murmu University, Dumka dated 06.05.2024 (Annexure: P6A at Page No. 93 of the writ petition) on 14.05.2024 before the last date of objection. The petitioner now contends that his candidature may be accepted by the University on the strength of the certificate dated 06.05.2024

submitted by the petitioner on 14.05.2024 for the post of Assistant Professor, Mathematics.

15. The petitioners in all the writ petitions are candidates who have registered for Ph.D. programme prior to July 11th, 2009.

16. In the advertisement dated 21.09.2020, issued by the Commission, inviting applications for filling up the post of Assistant Professor, Mathematics, the last date for submission of the application was initially prescribed as 02.11.2020 which was extended to 30.12.2020. Admittedly, the petitioners had submitted their application forms before the last date prescribed for submission of the forms in the advertisement dated 21.09.2020, but without the Ph.D. five point criteria certificate signed by the Registrar / Dean (Academic Affairs) of the University or without the certificate containing the five point criteria as prescribed in the advertisement.

17. It is an admitted position that the Ph.D. five point criteria certificates submitted by the petitioners along with their applications was not as per the Clause 4.1(ii) of the advertisement dated 21.09.2020, issued by the Commission.

18. In the above backdrop of the facts, what calls for determination by this Court in these batch of writ petitions is that whether the petitioners who did not submit their applications as

per the terms and conditions of the advertisement dated 21.09.2020, can be permitted to appear in the examination on fulfilling the terms and conditions prescribed in the advertisement dated 21.09.2020, subsequent to the last date of submission of the application as prescribed in the advertisement..

19. The issue for determination as framed above is no longer a res integra.

20. The Full Bench of the Patna High Court in the case of ***Braj Kishore Prasad vs. State of Bihar*** reported in **1998 (3) PLJR 34**, in paragraph-26 thereon, it has been held as under:

“26. Having regard to all these considerations, I hold that:

(a) Where the advertisement specifies the last date for filing of supporting or other documents, that date must be given effect to, and any document received after such date shall be rejected by the selecting authority.

(b) In appropriate cases where the selecting authority is of the view that the time for furnishing of documents should be extended, it may grant such extension by issuing a public notice to this effect so that all candidates may get the benefit of such extension. In the absence of any such extension granted by the selecting authority, the date/dates mentioned in the advertisement should be treated to be the last date for filing of documents, and no document shall be accepted thereafter.

(c) No application/document shall be entertained by the Commission if the same is filed after the last date specified in the advertisement, or the extended date notified by the commission, even if

the same is filed before the finalisation of the select list.

(d) In appropriate cases where this Court is satisfied that a case of extreme hardship or injustice has resulted on account of factors beyond the control of the concerned candidate, this Court in exercise of its writ jurisdiction may grant relief in deserving cases. But in doing so, the Court must be satisfied that the candidate concerned has acted diligently, and is not guilty of delay or laches in taking necessary steps for procuring the requisite certificates, etc. However, no relief shall be granted where the requisite certificate is produced for the first time after the process of selection is complete and the selecting authority has made its recommendation.”

21 . The Hon'ble Supreme Court in the case of ***Bedanga Talukdar v. Saifudaullah Khan***, reported in **(2011) 12 SCC 85** in paragraph -29, it has been held as under:

" ...We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically

reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India..."

22. From perusal of the ratio laid down in the case of ***Braj Kishore Prasad vs. State of Bihar (F.B.)*** (supra) and in the case of **Bedanga Talukdar** (supra) it is noticed that the selection process has to be conducted strictly in accordance with the stipulated selection procedure. When a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved in the Rules. Even if the power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement, but the power of relaxation, if exercise, has to be given due publicity.

23. In the instant cases it is an admitted position that the application submitted by the petitioners within the schedule mentioned in the advertisement did not conform to the terms and conditions prescribed in the advertisement dated 21.09.2020 issued by the Commission. No any provision for relaxation of the terms and conditions of the advertisement has been pointed out by the learned counsel for the petitioners, either in the advertisement or in the relevant recruitment rules.

24. Under the circumstances, when the law laid down by this Court as well as by the Hon'ble Supreme Court is that the selection process has to be conducted strictly in accordance with the stipulated selection procedure prescribed in the advertisement; and in view of the fact that there exist no provision for relaxation of the terms and conditions of the advertisement, either in the advertisement or in the relevant recruitment rules, I am of the considered view that the petitioners candidature can not be accepted on the strength of Ph.D. five point criteria certificate, signed by the Registrar of the concerned University, submitted subsequent to the last date of submission of the application prescribed in the advertisement or the time extended for such submission by the Commission.

25. For the reasons and discussions made hereinabove, I find no merit in these writ petitions and the writ petitions stand dismissed.

(Nani Tagia, J)

Nishant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2024.
Transmission Date	NA