

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.506 of 2022

In

Civil Writ Jurisdiction Case No.11355 of 2017

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1. Neeraj Kumar son of Sri Madan Mohan Prasad Sinha, resident of Mohalla-Alamgunj Chowki, P.O. Math Kedar Nath Lane, P.O.- Gulzarbagh, P.S.- Alamganj, District- Patna.
 2. Harshvardhan Prasad, son of Late Mahabir Prasad, resident of Village-Rasalpur, P.O.- Jagai, P.S.- Aungari, District- Nalanda, Biharsharif.
 3. Bipendra Kumar, son of Sri Ujjwal Prakash Tiwari, resident of Mohalla-Sheohar Babhantoli Ward No. 01, P.O. P.S. District- Sheohar.
 4. Yashwant Kumar Singh, son of Sri Surendra Prasad Singh, resident of Mohalla- Alisarai, P.O.- Machhahi, P.S.- Sakra, District- Muzaffarpur.
 5. Shobh Nath Singh, son of Late Bajrangi Singh, resident of Village and P.O.- Arap, P.S.- Bikram, District- Patna.
 6. Sanjay Kumar Pandey, son of Sri Shashikant Kumar Pandey, resident of Village- Aravan, P.O.- Parbalpur, P.S. Bein, District- Nalanda, Biharsharif.
 7. Amardeep Pandey, son of Late Harihar Nath Pandey, resident of Mohalla-Gaighat Khada Kuan, P.O.- Gulzarbagh, District- Patna.
 8. Prem Prakash, son of Sri Rabindra Nath, resident of Village- Bhadari, P.O.- Nalanda, P.S.- Shilao, District- Nalanda, Biharsharif.
 9. Miss Anupam Sinha, daughter of Sri Rajendra Prasad, resident of Village-Kevai, P.O.- Dhobdiha, P.S.- Khudaganj, District- Nalanda, Biharsharif.
 10. Vinay Kumar, son of Sri Rajendra Mishra, resident of Mohalla- Rikabganj, P.O.- Tikari, District- Patna.
 11. Pramod Kumar, son of Sri Krishna Prasad, resident of Village, P.O. and P.S.- Bikram, District- Patna.
 12. Jitendra Kumar, son of Sri Dhoop Narayan Singh, resident of Village and P.O.- Gorkhari, P.S.- Bikram, District- Patna.
 13. Pawan Kumar, son of Sri Arun Kumar, resident of Village- Manpur Malahi Toli, P.O.- Buniyadganj, P.S.- Gaya Mufassil, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Director, Secondary Education, Government of Bihar, New Secretariat, Patna.
3. The Deputy Director, Secondary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Patna.
5. The District Officer, District Collectorate, Nalanda, Biharsharif.
6. The District Education Officer, Nalanda, Biharsharif.



7. The District Programme Officer Establishment, Office of the District Education Office, Nalanda.
8. The District Education Officer, Patna.
9. The District Education Officer, Gaya.
10. The District Officer, Patna.
11. The Deputy Development Commissioner-cum- Chief Executive Officer, Nalanda, Bihar Sharif.
12. Nishant Kumar, son of Sri Thakur Narmadeshwar Prasad Singh, resident of Village and P.O.- Sirnawan, P.S.- Wena, District- Nalanda.
13. Sant Prakash, son of Sri Laxman Prasad, resident of Mahadev Sthan, Bihari Road, P.S.- Hilsa, District- Nalanda, Bihar Sharif.
14. Kumar Rajmani, son of Sri Sachchidanand Sharma, resident of Village- Murarpur, P.O.- Kapasiyavan, P.S.- Hilsa, District- Nalanda Bihar Sharif.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abhinav Srivastava, Advocate Mr.Rudrank Shivam Singh, Advocate Mr.Arpit Anand, Advocate
For the Respondent/s	:	Mr.Apurva Kumar, Advocate Mr.Pranav Kumar, Advocate Mr.Rajeev Ranjan No.II, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-09-2024

The writ petitioners are the appellants who are aggrieved with the judgment of the learned Single Judge declining their claim for appointment to the post of Librarian. The learned Single Judge found that the Education Department had issued directions on 25.06.2019 which selection process was complied with by the District Appellate Authority, Nalanda and six persons have already been appointed as Librarian. The petitioners though participated, were not selected. The writ



petition was rejected on the ground that the petitioners who participated in the selection process had failed.

2. Learned Counsel for the appellant argued that the learned Single Judge had completely misconstrued the prayers and the facts. In fact, there was a notification of the year 2008 initiating an appointment process as per the Rules of 2006 to the various Government schools in the State of Bihar. The educational qualification alone was the criteria and the merit list was prepared in accordance with the marks obtained in the required qualification. The selection process was also by organizing camps which included selection to the post of Teachers and Librarians.

3. While the process commenced, there was a hitch in the selection process by reason of disqualification of certain candidates who obtained the required qualification from Alagappa University (for brevity 'University'). They filed a writ petition against this disqualification, which eventually ended with Annexure-3 judgment of the Hon'ble Supreme Court. The persons who obtained the qualification from the University were also directed to be considered. Later, the Rules of 2006 and the very selection process was challenged by certain teachers who were appointed, which challenge was successful and a Division



Bench of this court read down the Rules by a decision reported in *Bihar Secondary Teachers Struggle Committee v. State of Bihar*; 2017 (4) PLJR 664. The said decision was taken up in appeal by the State and the Hon'ble Supreme Court reversed the same in *State of Bihar v. Bihar Secondary Teachers Struggle Committee*, (2019) 18 SCC 301. Even in the immediate past year, there were appointments made pursuant to orders issued by this Court, is the contention.

4. Admittedly, the selections commenced in the year 2008 and there were appointments made to some posts also. The controversy with respect to the qualification obtained from the University does not affect the appellants herein, who had qualified from other institutions. Annexure-3 judgment directed the consideration of the petitioners therein depending upon their inter-se merit, vis-a-vis other candidates, who were competing for the unfilled vacancies. In fact, the result of those petitioners before the Hon'ble Supreme Court were kept in sealed cover awaiting the ultimate outcome of the appeals. This makes it very clear that the appointments of the others were considered and proceeded with.

5. The decision in *Bihar Secondary Teachers Struggle Committee (supra)* was with respect to the claim of



equal pay for equal work raised by the newly appointed teachers. The persons who were selected under the Rules of 2006 claimed parity of treatment with the government school teachers; which was declined by the Hon'ble Supreme Court.

6. We notice the counter affidavit filed by Respondent No. 7 in the appeal. It is averred that after the order of the Hon'ble Supreme Court in ***Bihar Secondary Teachers Struggle Committee (supra)***, the Education Department Bihar, Patna issued circulars and guidelines regarding appointment of Librarians under the Rules of 2006 which had to be taken up from the stage where from it remained pending. In the Nalanda district, the process was commenced and the appointment of librarians were made and finally six candidates including Petitioner No. 2 in the writ petition, was appointed. The petitioners case is that there should be appointments made to all the vacant posts of 2008; which the respondents contend are filled up, i.e., insofar as those which were pending due to the reading down of the provision by the Hon'ble High Court; overturned later by the Hon'ble Supreme Court.

7. We are not convinced that any orders could be issued at this stage to continue an appointment process which had commenced in the year 2008. If posts are remaining vacant,



then necessarily those who qualified later also would be entitled to be considered. The learned Counsel for the appellant asserts that the petitioners are all now over-aged. That is no reason for directing appointments with respect to a selection process commenced about 16 years back. Merely because a selection was instituted or even a select list prepared, will not create a vested right on the persons eligible to apply then or those figuring in the select list, to be appointed.

8. We find absolutely no reason to entertain the L.P.A. and reject the same.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.10.2024
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