

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1006 of 2024

Mahesh Kumar Tiwari Son of Daya Shankar Tiwari, Resident of village-Sirkhiriya, Police Station-Runni Saidpur, Sirikhiriya, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar Through the Additional Chief Secretary, Department of Education, Government of Bihar.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. The Chancellor of Universities, Bihar, Raj Bhawan, Patna.
4. The Secretary, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, (Bailey Road), Patna-800001.
5. The Joint Secretary-cum-Controller of Examination, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, (Bailey Road), Patna-800001.
6. The Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
7. Kameshwar Singh Darbhanga Sanskrit University through its Registrar, Darbhanga.
8. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Ranjan Kr Jha, Subhash Kr Jha, Advocates
For the State	:	Mr Pankaj Kr, SC XII
For the University	:	Mr Kr Kaushlendra, Advocate
For the B P S C	:	M/s Sanjay Pandey, Nishant Kr Jha, Advocates
For the Chancellor	:	Mr Sajid Salim Khan, Sr Advocate

CORAM: HONOURABLE MR JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 10-11-2025

Heard the parties.



2 The petitioner, one of the aspirants for the post of Assistant Professor in Vyakran subject, has invoked the jurisdiction of this Court seeking a direction commanding upon the respondents to adopt the similar yardsticks in relation to Advertisement No 81 of 2014 as has been adopted and applied in respect of the other advertisements and to publish the final result of the wait list candidates.

3 The State Government sent a requisition for appointment on the post of Assistant Professor in different streams in terms with the Bihar State Universities (Amendment) Act, 2013 and the Statutes for appointment of teachers (Assistant Professor grade) for the Universities of Bihar, 2014 duly approved by the Hon'ble Chancellor. Accordingly, advertisement for the posts of Assistant Professors in different Universities vide Advertisement No 44 of 2014 to 84 of 2014 were published by the Commission, including Advertisement No 81 of 2014, which is the subject matter herein. In pursuance to Advertisement No 81 of 2014, the petitioner being a candidate of unreserved category, applied for the post of Assistant Professor, Vyakran. Completing all the due formalities of the selection including the interview, a combined merit list was prepared and the selection was made with respect to 15 candidates after publication of the result on 19.06.2019. The



petitioner could not be declared successful as he had secured 77.50 marks which is lesser than cut off marks 77.60.

4 In the meanwhile, one of the aspirants for the post of Assistant Professor approached this Court in CWJC No 11397 of 2017 seeking a direction upon the respondents to give effect to Clause 5.7 of the Statute of 2014 which mandates for preparation of wait list. The writ petition finally came to be allowed vide order dated 03.04.2018 directing the Commission to prepare the wait list. The aforementioned order was questioned before the Division Bench of this Court in LPA No 1301 of 2018 and the matter has been relegated to the Chancellor.

5 In pursuance to the decision rendered by the learned Division Bench of this Court, a final decision was taken at the level of the Chancellor following the decision of the Education Department, Government of Bihar directing for publication of the provisional wait list. Consequently, the Commission has come out with the provisional wait list and the name of the petitioner has been shown to be at Serial No 1 in the subject of Vyakran. Notwithstanding the aforesaid fact, the claim of the petitioner has not been considered on the ground that since no vacancy was made available by the Department under Advertisement No 81 of 2014 with respect to Vyakran subject after competition of the formalities



of the selection of successful candidates, hence, the appointment of the petitioner could not be done.

6 Learned Advocate for the petitioner categorically stated in paragraph 15 of the writ petition that out of the successful candidates under the Vyakran subject, one Shri Ganeshwar Nath Jha, whose name appeared at serial No 6, has neither appeared in the counselling nor has given joining. This has resulted in one vacancy, against which the petitioner can be easily appointed on account of having secured 16th position, in the combined merit list and No 1 in the wait list. Despite the aforesaid position, the initial counter affidavit filed by the State and the University was silent. Hence, this Court, on the last occasion, vide order dated 13.10.2025, specifically directed the University to verify the facts and ensure filing of the counter affidavit especially to the averments made in paragraph 15 of the writ petition. In compliance to the order of this Court, a counter affidavit, duly sworn by the Registrar, Kameshwar Singh Darbhanga Sanskrit University has been filed. The stand of the petitioner is duly accepted in paragraph No 12 of the counter affidavit. It is specifically contended that one of the persons, namely, Ganeshwar Nath Jha, son of Jyot Narayan Singh, whose name was at Serial No 6 in the final merit list but could not appear in the counselling.



Since no information was mentioned in the letter, the University only issued posting order in favour of 16 Assistant Professors. However, it is the fact that one post remained vacant.

7 Having considered the submissions advanced by the learned Advocate for the respective parties and taking note of the averments made in the counter affidavit filed by respondents No 6 to 8, this Court deprecates the action of the State authorities in not disclosing the correct position before this Court. The facts are admitted to the extent that one of the post of the Assistant Professor under the Vyakran subject is still vacant and identically situated persons of different streams, who secured position in the merit list, have been appointed in cases of non-joining or arising of the vacancy because of some other reason, but the claim of the petitioner has been denied, irrespective of one post still remain vacant.

8 It is pertinent to observe that once a right and entitlement accrued in favour of the petitioner on account of preparation of waiting list, in terms with the mandate of the Statute and the corresponding vacant post, the same cannot not be washed away by a wrong committed by the respondents.

9 In the facts and circumstances, this Court is left with no option but to direct the State respondents to send a requisition



for appointment against the post of Assistant Professor in Vyakran to the Commission who, after proper verification, shall issue the appropriate order for posting of the petitioner in the concerned University.

10 The entire exercise must be completed within a period of eight weeks from the date of receipt/production of a copy of this order.

11 The writ petition stands disposed of.

(Harish Kumar, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.11.2025
Transmission Date	NA

