

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1503 of 2015

In
Civil Writ Jurisdiction Case No.5744 of 2012

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1. The Vice Chancellor, Patna University, Patna Ashok Raj Path, Pirbahore, Patna.
 2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bih
3. Dr. Chandra Bhushan Shrivastava S/o Sri Avinash Chandra Lal, Resident of Mohalla- House No. 02, Azad Nagar, P.S.- Jangipur, District- Jangipur U.P.
4. Dr. Reeta Sharma W/o Gautam Sagar Rana, Resident of 174, Kautilya Nagar, P.S.- B.V. College, P.S.- Shastri Nagar, District- Patna
5. Dinesh Kumar, S/o Shiv Muni Ram, Resident of Village- Jamuon, P.S.- Piro, District- Ara, at present C/o- Ramu Kumar, Resident of Mohalla- Dhobi Tola, Bihar

... .. Respondent/s

with
Letters Patent Appeal No. 1509 of 2015
In
Civil Writ Jurisdiction Case No.5456 of 2012

Ajay Kumar Pandey Son of Shri Krishna Pandey resident of F 44/4, Near MCD School, Mohalla-Rajpur Extension P.s Mehrauli, New Delhi, at present Teacher ,Art and Craft College, Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department ,Govt. Of Bihar, Patna.
3. The Vice Chancellor, Patna University, Patna.
4. The Registrar Patna University, Patna.
5. Amresh Kumar son of Jagdish Singh Resident of Flat A. G.G. Complex, behind Rajendra Nagar, Post Office and Police Station - Kadamkuan, District - Patna.

... .. Respondent/s

with



Letters Patent Appeal No. 1518 of 2015
In
Civil Writ Jurisdiction Case No.3785 of 2012

Chandra Bhushan Srivastava son of Shri Avinash Chandra Lal, Resident of Mohalla No. 02, Azad Nagar, P.S.- Jangipur, District- Jangipur U.P.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Vice Chancellor, Patna University, Patna
4. The Registrar, Patna University, Patna
5. Dr. Reeta Sharma, wife of Shri Gautam Sagar Rana, resint of 174, Kautilya Nagar, P.O.- B.V. College, P.S. Shastri Nagar, District- Patna
6. Anil Bihari, son of Late Shiv Lal Mandal, resident of Mohalla- Mungeriganj, P.S. Begusarai, District Begusarai

... .. Respondent/s

with
Letters Patent Appeal No. 1573 of 2015
In
Civil Writ Jurisdiction Case No.4611 of 2012

1. The Vice Chancellor Patna University
2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. Dr. Umesh Kumar Singh S/o Sri Samar Bahadur Singh, resident of N-9/87D-15 Janki Nagar Lane No. 1, P.O.- Bazar Diha, Varanasi- 221106
4. Rajesh Kumar Singh son of Late Ram Bali Singh, Resident of B-300 Sidharth Banglows, Sabhali Road, Baroada, Gujrat- 390022

... .. Respondent/s

with
Letters Patent Appeal No. 1584 of 2015
In
Civil Writ Jurisdiction Case No.3785 of 2012

1. The Vice Chancellor Patna University



2. The Registrar, Patna University, Patna Ashok raj Path, P.S. - Pirbahore, Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar.
3. Dr. Chandra Bhushan Shrivastava, S/o Sri Avinash Chandra Lal, Resident of Mohalla - House No. 02, Azad Nagar, P.S. - Jangipur, District - Jangipur U.P.
4. Dr. Reeta Sharma, W/o Gautam Sagar Rana, Resident of 174, Kautilya Nagar P.s. - B.V. College, P.S. - Shastri Nagar, District - Patna.
5. Anil Bihari, S/oLate Shiv Lal Mandal, Resident of Mungeriganj, P.S. - Begusarai, District - Begusarai.

... .. Respondent/s

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with
Letters Patent Appeal No. 1591 of 2015
In
Civil Writ Jurisdiction Case No.3751 of 2012

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Shashi Ranjan Prakash son of Sri Ramchandra Ram, resident of H. No.770, Ward No.32, Peonibagh, Baswaria, P.O. and P.S- Bettiah, District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. Abinash Das, son of Late Nityanand Das, resident of Mohalla 30, Shahid Udham Singh Nagar, P.O. and P.S.- Jalandhar-1, Punjab, presently residing at B-3, Professor Quarters, Law College Campus, Near Mahendru Post Office, P.S.- Pirbahore, District- Patna.
6. Dinesh Sharma, son of Sri Bangali Sharma, resident of village- Koyri Bigha, P.S.- Barbiga, District- Sheikhpura.

... .. Respondent/s

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with
Letters Patent Appeal No. 1604 of 2015
In
Civil Writ Jurisdiction Case No.3751 of 2012

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Abinash Das Son of late Nityanand Das resident of Mohalla 310, Shahid Udham Singh Nagar, P.o. and P.s Jalandhar-1, Punjab, Presently residing at B-



3, Professor Quarters ,Law College Campus, Near Mahendru Post Office, P.s
Pirbahore, District Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department Govt. of Bihar, Patna.
3. The Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. Shashi Ranjan Prakash Son of Sri Ramchandra Ram resident of H.No. 770, ward no. 32, Peonibagh, Baswaria, P.O. and P.s Bettiah, District West Champaran.
6. Dinesh Sharma Son of Sri Bangali sharma resident of Village- Koyari Bigha, P.s Barbiga,District Sheikhpura.

... .. Respondent/s

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with
Letters Patent Appeal No. 1712 of 2015
In
Civil Writ Jurisdiction Case No.4611 of 2012

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Dr. Umesh Kumar Singh son of Sri Samar Bahadur Singh, resident of N- 9/
87D- 15, Janki Nagar Lane No.1, P.O.- Bazar Diha, Varanasi 221106

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department , Government of Bihar, Patna
3. The Vice Chancellor, Patna University, Patna.
4. The Registrar, Patna University Patna
5. Rajesh Kumar Singh, son of Late Ram Bali Singh, resident of B-300, Sidharth Banglows, Samay Sabhali Road, Baroda, Gujarat 390022

... .. Respondent/s

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with
Letters Patent Appeal No. 1759 of 2015
In
Civil Writ Jurisdiction Case No.3785 of 2012

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Dr. Reeta Sharma W/o Sri Gautam Sagar R/o - 174 Kautilya Nagar, P.O. -
B.V. College, P.S. - Shastri Nagar, District - Patna.

... .. Appellant/s

Versus



1. The State of Bihar
2. The Principal Secretary Education Department Govt. of Bihar, Patna.
3. The Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. Chandra Bhushan Shrivastava S/o - Sri Avinash Chandra Lal R/o Mohalla - House No. 2 Azad Nagar, P.S. - Jangipur, District - Jangipur U.P.
6. Anil Bihari S/o - Late Shiv Lal Mandal R/o Mohalla - Mungeriganj, P.S. - Begusarai, District - Begusarai.

... .. Respondent/s

with
Letters Patent Appeal No. 1784 of 2015
In
Civil Writ Jurisdiction Case No.5744 of 2012

Dr. Reeta Sharma W/o - Sri Gautam Sagar Rana R/o - 174 Kautilya Nagar,
P.O. - B.V. College, P.S. - Shastri Nagar, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary Education Department, Govt. of Bihar, Patna.
3. The Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. Chandra Bhushan Shrivastava S/o - Sri Avinash Chandra Lal R/o Mohalla - House No. 2 Azad Nagar, P.S. - Jangipur, District - Jangipur U.P.
6. Dinesh Kumar S/o - Late Shiv Muniram Resident of Village - Jamuaon, P.S. - Piro, District - Bhojpur Arah, At present address, C/o - Ramu Kumar, Mohalla - Dhobi Tola, P.S. - Danapur, District - Patna.

... .. Respondent/s

with
Letters Patent Appeal No. 1852 of 2015
In
Civil Writ Jurisdiction Case No.5039 of 2012

1. The Vice Chancellor Patna University
2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.



- 3. Rakhee Kumari, D/o Mahavir Singh, Resident of Mohalla- Kankarbagh, P.S. Kankarbagh, District- Patna.
- 4. Sujai Mukharjee, S/o Dr. S.N. Mukurjee, Resident of 561, Dakshindari Road, Laho Bazar, P.S.- Sribhunni, Calcutta- 700048, West Bengal at present posted as Lecturer, Art and Craft College, Patna, Vidyapati Marg, P.S.- Budha Colony, District- Patna.
- 5. Navin Kumar, S/o Late Shri Rajdeo Sharma, Residenyt of Village- Raghu Bigha, P.O.- Sansa, Police Station- Daudnagar, District- Aurangabad Bihar.

... .. Respondent/s

with
Letters Patent Appeal No. 1857 of 2015
In
Civil Writ Jurisdiction Case No.5456 of 2012

- 1. The Vice Chancellor, Patna University
- 2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna.

... .. Appellant/s

Versus

- 1. The State of Bihar
- 2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
- 3. Ajay Kumar Pandey, son of Sri Krishna Pandey, Resident of 44/5, Near MCD School, Mohalla- Rajpur Extension, P.S.- Mehrauli, New Delhi at present teacher Art and Craft College, Patna.
- 4. Amresh Kumar, son of Jagdish Singh, Resident of Flat No. 1, G.G. Complex, Behind Rajendra Nagar, P.O. and P.S.- Kadamkuan, District- Patna.

... .. Respondent/s

with
Letters Patent Appeal No. 1858 of 2015
In
Civil Writ Jurisdiction Case No.3751 of 2012

- 1. The Vice Chancellor Patna University
- 2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna.

... .. Appellant/s

Versus

- 1. The State of Bihar and
- 2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.



- 3. Abhinash Das, S/o Late Nityanand Das, resident of Mohalla- 310, Shahid Uddham Singh Nagar, P.O. and P.S.- Jalandhar-1, Punjab at present posted as Lecturer of Art and Craft College, Patna Vidyapati Marg, Patna.
- 4. Shashi Ranjan Prakash, son of Sri Ram Chandra Ram, Resident of House No.770, Ward No.32, District- West Champaran.
- 5. Dinesh Sharma, son of Bangali Sharma, Resident of Village- Koiri Bigha, P.S.- Barbigha, District- Sheikhpura.

... .. Respondent/s

with
Letters Patent Appeal No. 1859 of 2015
In
Civil Writ Jurisdiction Case No.5860 of 2012

- 1. The Vice Chancellor, Patna University
- 2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna.

... .. Appellant/s

Versus

- 1. The State of Bihar
- 2. The Principal Secretary, Education Department, Govt. of Bihar.
- 3. Ajay Kumar Pandey, son of Sri Krishna Pandey, Resident of 44/5, Near MCD School, Mohalla- Rajpur Extension, P.S.- Mehrauli, New Delhi at present teacher Art and Craft College, Patna.
- 4. Ramu Kumar, son of Late Sitaram Pandit, Resident of Mohalla- Dhobi Tola, P.S.- Danapur Cantt, District- Patna.

... .. Respondent/s

with
Letters Patent Appeal No. 1860 of 2015
In
Civil Writ Jurisdiction Case No.5580 of 2012

- 1. The Vice Chancellor Patna University
- 2. The Registrar, Patna University, Patna Ashok Raj Path, P.S.- Pirbahore, Patna.

... .. Appellant/s

Versus

- 1. The State of Bihar
- 2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
- 3. Mazhar Elahi, son of Mr. Manzoor Elahi, resident of House No.150, Okhala, Village Jamia Nagar, New Delhi-110025.



4. Ranjeeta Sonkar @ Ranjita D/o Raj Kumar Sonkar, Resident of 433/1483, Balaganj, Chouraha, Lucknow- 226003 address for correspondence- Art and Craft, Coperative Fine Art, Lucknow University, Taigore Marg, Lucknow-226006.

... .. Respondent/s

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with
Letters Patent Appeal No. 1882 of 2015
In
Civil Writ Jurisdiction Case No.5580 of 2012

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Mazhar Elahi son of Manzoor Elahi, resident of H.No. 150, Okhla Village, P.S- Jamia Nagar, New Delhi, presently Asst. professor, College of Arts and Crafts, Patna University at Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, GOvt. of Bihar, Patna,
3. The Vice-Chancellor, Patna University, Patna.
4. The Registrar, Patna University, Patna.
5. Ranjeeta Sonkar @ Ranjeeta D/o Rajkumar Sonkar, resident of 433/1483, Balaganj Chauraha, Lucknow, 226003, Correspondence Address College of Art and Craft, Faculty of Fine Art, Lucknow University, Taigore Marg, Lucknow 226006.

... .. Respondent/s

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with
Letters Patent Appeal No. 1950 of 2015
In
Civil Writ Jurisdiction Case No.5039 of 2012

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Rakhee Kumari D/O Mahavir Singh, R/O Mohalla Kankarbagh, P.S. Kankarbagh, District Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Pincipal Secretary, Education Department, Govt. of Bihar, Patna
3. The Vice Chancellor, Patna University, Patna
4. The Registrar, Patna University, Patna
5. Navin Kumar S/o Late Shri Rajdeo Sharma, R/o Village Raghu Bigha Post Office Sansa, P.S. Daudnagar and Distt- Aurangabad Bihar
6. Sujai Mukharjee Son of Dr. S.N. Mukherjee R/o 561, Dakshindari Road, Lah Bazar, P.O. Sribhuni, Calcutt- 700048, West Bengal At Present Posted



as Lecturer, Art and College, Patna, Vidyapati Marg, P.S. Budha Colony,
Patna-1

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1503 of 2015)

For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr. Abhinav Srivastava, Advocate
Mr. Krishna Murari, Advocate
Mr. Arpit Anand, Advocate

(In Letters Patent Appeal No. 1509 of 2015)

For the Appellant/s : Mr. Abhinav Srivastava, Advocate
Mr. Krishna Murari, Advocate
Mr. Arpit Anand, Advocate
For the State : Mr. Gyan Prakash Ojha, GA-7
For the University : Md. Nadim Seraj, Advocate

(In Letters Patent Appeal No. 1518 of 2015)

For the Appellant/s : Mr. Abhinav Srivastava, Advocate
Mr. Krishna Murari, Advocate
Mr. Arpit Anand, Advocate
For the Respondent/s : Mr. Gp6- Prashant Pratap

(In Letters Patent Appeal No. 1573 of 2015)

For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr.

(In Letters Patent Appeal No. 1584 of 2015)

For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr. Abhinav Srivastava, Advocate
Mr. Krishna Murari, Advocate
Mr. Arpit Anand, Advocate

(In Letters Patent Appeal No. 1591 of 2015)

For the Appellant/s : Mr. Abhinav Srivastava, Advocate
Mr. Krishna Murari, Advocate
Mr. Arpit Anand, Advocate
For the Respondent/s : Mr. Subhash Pd. Singh, GA-3

(In Letters Patent Appeal No. 1604 of 2015)

For the Appellant/s : Mr. Abhinav Srivastava, Advocate
Mr. Krishna Murari, Advocate
Mr. Arpit Anand, Advocate
For the Respondent/s : Mr. Suresh Kumar, AC to GP 1

(In Letters Patent Appeal No. 1712 of 2015)

For the Appellant/s : Mr. Abhinav Srivastava
For the Respondent/s : Mr. Sc9-Raj Nandan Prasad

(In Letters Patent Appeal No. 1759 of 2015)

For the Appellant/s : Mr. Dr. Satyendra Kumar Srivastava
For the State : Mr. Parmanand Kumar Singh, AC to GA-10

(In Letters Patent Appeal No. 1784 of 2015)

For the Appellant/s : Mr. Dr. Satyendra Kumar Srivastava, Advocate
For the Respondent/s : Mr.

(In Letters Patent Appeal No. 1852 of 2015)

For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr. Rakesh Kumar, Advocate

(In Letters Patent Appeal No. 1857 of 2015)

For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr. Abhinav Srivastava, Advocate

(In Letters Patent Appeal No. 1858 of 2015)



For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr.
(In Letters Patent Appeal No. 1859 of 2015)
For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr. Sunil Kumar Singh, Advocate
(In Letters Patent Appeal No. 1860 of 2015)
For the Appellant/s : Md. Nadim Seraj, Advocate
For the Respondent/s : Mr. Nafisuzzoha, Advocate
Mr. Nazmer Alam, Advocate
Ms. Shabina Talat, Advocate
(In Letters Patent Appeal No. 1882 of 2015)
For the Appellant/s : Mr. Nafisuzzoha, Advocate
Ms. Shabina Talat, Advocate
For the Respondent/s : Mr.
(In Letters Patent Appeal No. 1950 of 2015)
For the Appellant/s : Mr. Rakesh Kumar, Advocate
For the Respondent/s : Mr. Kameshwar, GP 17

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 06-09-2024

The appellants - Patna University and selected and appointed candidates for the post of Assistant Professors in various discipline have assailed the order of the learned Single Judge dated 29.04.2015 passed in CWJC No. 5580 of 2012 and connected matters by which selection and appointment of the appellants/candidates/applicants to the post of Assistant Professor has been interfered and various directions have been issued.

2. Brief facts of the case are that in the year 1995 on account of retirement of teaching staffs led to creation of eleven posts of Assistant Professors. Instead of going for regular recruitment they have proceeded to appoint on *ad hoc* basis in the year 1996. CWJC No. 9519 of 2004 was filed for a direction to



Patna University to appoint permanent Lecturer in Arts and Craft College. On 18.04.2011, writ petition was allowed. The learned Single Judge directed the Vice Chancellor to take appropriate steps for appointment of vacant posts. Resultantly, on 17.10.2011 advertisement was issued inviting application from the eligible candidates for eleven posts of Assistant Professor in different subjects namely Painting-2, Applied Arts-2, Sculpture-2, History of Art-2, Photography-1 and Graphic-2. The process of selection and appointment were completed on 08.02.2012. The appellants/candidates and contesting respondents (writ petitioners) participated in the process of selection and appointment. Contesting respondents were unsuccessful in the process of selection and appointment to the aforementioned posts. Feeling aggrieved by the selection and appointment of appellants/applicants and contesting respondents filed CWJC No. 5580 of 2012 and connected matters. Writ petition was allowed in part by the learned Single Judge on 29.04.2015 on the score that Experts Committee constituted was not in terms of Section 56 of the Patna University (Amendment) Act, 2007 which was substituted to Section 56 of the Patna University Act, 1976. Constitution of the Experts Committee details have been taken



note of in CWJC No. 5580 of 2012 vide Para 14 and it reads as under:-

"14. A committee was constituted comprising four experts, one Chancellor's nominee, one State Government nominee with the Vice Chancellor of the Patna University as its Chairman for making selection and recommending names for appointment of Assistant Professors in all subjects pursuant to the said advertisement. The details of the committee so constituted is given herein below, which has been taken from a supplementary counter affidavit filed on behalf of the respondent- Patna University in CWJC No. 5580 of 2012:-

*" (i) (Prof. Sunil Kumar, Expert, Prof. & Director, SOPVA, IGNOU, New Delhi
(ii) Prof. Madan Singh Rathore, Expert, Prof. & Head, Dept. of Visual Arts, M. L. Sukhadia University, Udaipur, Rajasthan
(iii) Prof. Dr. Anupa Pande, Prof. & Head, Dept. of History of Art, New Delhi
(iv) Prof. S. N. Lahiri, Expert, Head, M.F.A. (Applied Art), College of Art, 20-22, Tilak Marg, New Delhi
(v) Dr. Srinarayan Sinha- Chancellor's Nominee
Sri Lakshman Kumar Sinha, State Govt. Nominee
(vi) Vice Chancellor, P.U-Chairman." (sic)"*

3. Thereafter, proceeded to allow petition on three counts namely committee was not constituted in terms of Section 56 of Patna University Act, 1976 (2007 Amendment), committee members are not expert in respect of the aforementioned six subjects. Further, selected and appointed candidates are not entitled to exemption insofar as passing of NET Examination (vide para 28 of the judgment - CWJC No. 5580 of 2012).



4. Learned counsel for the appellants submitted that learned Single Judge has committed error in not appreciating qualification possessed by each of the experts and the same has not been placed on record by the University. It is further submitted that appellants/applicants who have not qualified with NET and other equivalent qualifications, they are exempted in 4.4.2.3. It is also part of advertisement issued on 17.10.2011 (Annexure-5) of Writ Petition No. 5744 of 2012 Extract of 4.4.2.3 in respect of Visual (Fine) Arts Discipline which reads as under:-

**"4.4.2.3 VISUAL (FINE) ARTS
DISCIPLINE**

1. Assistant Professor:

i. Good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's degree level in the relevant subject or an equivalent degree from an Indian/Foreign University.

ii. Besides fulfilling the above qualifications, candidates must have cleared the National Eligibility Test (NET) for lectureres conducted by the UGC, CSIR or similar test accredited by the UGC. Notwithstanding anything contained in sub-clauses (i) and (ii) to this Clause 4.4.2.3, candidates, who, or have been awarded a Ph.D. Degree, in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009 shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/ Colleges/Institutions.



ii. Without prejudice to the above, NET/SLET/SET is not conducted.

OR

i. A Professional artist with highly commendable professional achievement in the concerned subject, who should have:

1. First class Diploma in Visual (Fine) arts discipline from the recognized institution of India/Abroad;

2. Five years of experience of holding regular regional/National exhibitions/Workshops with evidence, and

3. Ability to explain the logical reasoning of the subject concerned and adequate knowledge to teach theory with illustrations in that discipline."

5. On 18.03.2024, the following order was passed:-

"Learned counsel for the University is hereby directed to secure qualification of the experts, namely, Prof. Sunil Kumar, Prof. Madan Singh Rathore, Prof. S.N. Lahiri and Prof. Dr. Anupa Pande. They are experts in either of the subjects namely Painting, Applied Arts, Sculpture, History of Art, Photography and Graphic be ascertained so as to examine their participation in recruitment to the various posts of Assistant Professor in Painting, Applied Arts, Sculpture, History of Art, Photography and Graphic is in compliance to Section 56 of the Patna University Act, 1976 or not?

2. Relist this matter on 29.04.2024."

6. Respondents-University have filed supplementary affidavit along with document SA/1 Series/SA2/SA3/SA4 and SA5 insofar as personal resume of the each expert who had participated in the process of selection and appointment to the post



of Assistant Professors namely Prof. (Dr.) Anupa Pandey, Dr. Madan Singh Rathore, Prof. (Dr.) Sunil Kumar and Mr. Soumendra Nath Lahiri. Perusal of personal resumes in Painting, Applied Arts, Sculpture, History of Art, Photography and Graphic. Like Mr. Soumendra Nath Lahiri is expert in Applied Arts, Prof. (Dr.) Madan Singh Rathore is expert in Fine Arts and Painting, Prof. (Dr.) Anupa Pandey is expert in History of Arts and Mr. Sunil Kumar is expert in Graphic, Photography and Sculpture. These are all evident from the aforementioned documents which were part and parcel of LPA. On the previous occasion, Mr. Gyan Prakash Ojha, learned counsel for contesting respondent no. 4 in LPA No. 1859 of 2015, sought time to counter the aforementioned supplementary affidavit read with the documents filed on behalf of the University. In that regard, he has filed supplementary affidavit on behalf of the respondent no. 4 in LPA No. 1859 of 2015 along with Annexure-R/1 series relating to marks-sheet/degree to contend that the aforementioned experts are not fulfilling the requisite expertise in a particular subject.

7. At this stage, learned counsel for one of the appellants submitted that the aforementioned experts were selected and appointed for the selection and appointment of Assistant Professor in the light of Section 56 of the Amended Act, 2007 by the



Academic Council. Therefore, there is no infirmity insofar as the appointment of the aforementioned committee members for the purpose of selection and appointment to the post of Assistant Professor.

8. Heard learned counsels for the respective parties.

9. The appellants have assailed the order of the learned Single Judge dated 29.04.2015 passed in CWJC No. 5580 of 2012 and connected matters insofar as candidates for selection and appointment to the post of Assistant Professor in different discipline. They have contended that learned Single Judge has committed error in not appreciating that academic counsel of the University have identified experts and selected them for conducting selection and appointment process to the post of Assistant Professor for various discipline, in not summoning what are the expertise of each of the committee member who had participated in the process of selection and appointment to the post of Assistant Professor. On the other hand, in para 14 he has quoted the names of the Professors, in para 15 their status has been taken note of, in other words, their expertise in which are the subject and they possessed which are the qualification and other members have not been taken note of on the score that University - Appellants failed to produce those materials. To that extent,



learned Single Judge has committed error. Therefore, in the light of supplementary affidavit along with documents SA/1 Series/SA2/SA3/SA4 and SA5. Each of the committee member and resumes has been furnished in order to ascertain as to who are all experts in the relevant subject or not? Therefore, order of the learned Single Judge is liable to be set aside.

10. It is further submitted that in para 28 finding has been given to the extent that such of those who have cleared NET Examination are entitled for selection and appointment, otherwise, they are not entitled to. On this issue, learned counsel for the appellants submitted 4.4.2.3 (cited supra). Learned Single Judge has not appreciated the aforementioned provision to the extent that such of those candidates who have not passed NET Examination and equivalent examination they are entitled to be exempted insofar as passing of NET examination if they possessed requisite qualification in terms of 4.2.2.3 and University and selected and appointed candidates have not apprised that appointed candidates have alternative qualification so as to seek exemption.

11. Learned counsel for the University reiterated the aforementioned contentions and submitted that order of learned Single Judge is liable to be set aside while supporting the selection and appointment pursuant to the advertisement are in order. On the



other hand, Gyan Prakash Ojha, learned counsel for the respondents appeared only in respect of respondent no. 4 in CWJC No. 1859 of 2012, CWJC No. 1509 of 2012 and CWJC No. 1784 of 2012 and other respondents were not represented. It is to be noted that the present Letters Patent Appeal is pending consideration for the last about nine years and the matter is being taken up for final disposal. In fact, the matter is heard from time to time for one or the other reason the matter is being adjourned for the last about five months by this Bench. Mr. Gyan Prakash Ojha, learned counsel appearing for contesting respondents submitted that document furnished by the University along with SA/1 Series/SA2/SA3/SA4 and SA5 are not sufficient to draw inference that they are experts in respective discipline. To that effect, he has filed supplementary affidavit on behalf of the fourth respondent in CWJC No. 1859 of 2012, CWJC No. 1509 of 2012 and CWJC No. 1784 of 2012 along with Annexure-R1 series. He has pointed out some degree of post graduation certificates issued in a particular subject. Therefore, the experts do not have similar certificate. For example Annexure-R/1 Master of Fine Arts is the title of the degree whereas the subject is Applied Art. Similarly, Benaras Hindu University has issued a Master Fine Arts Certificate to one Sri Amrendra Kumar, title is Master of Fine Arts



(it has been shown as plastic cards). Similarly, document no. 3 is relating to title as a Master of Fine Arts subject has been shown as the Graphic Arts. Therefore, the experts do not possess requisite expertise in a particular subject and their participation is not in accordance with Section 56 of the Patna University (Amendment) Act, 1956. It was also submitted that some of the selected and appointed candidates do not possess the requisite qualification of NET in support of the aforementioned contention. He relied on para 28 of the learned Single Judge order dated 29.04.2015 passed in CWJC No. 5580 of 2012 and connected matters.

12. Heard learned counsels for the respective parties.

13. Core issue involved in the present *lis* is whether appointment of experts (cited supra) by the Academic Council of the University is in order or not? Further, whether appellants/candidates selected had passed NET examination or in the alternative they are eligible for exemption on account of having alternative qualification or not? Further each of the selected candidate fulfills the prescribed qualifications for the subject post or not?

14. The learned Single Judge had no occasion to examine expertise of the members in the subjects like Painting, Applied Arts, Sculpture, History of Art, Photography and Graphic



since University failed to produce. We have already noticed from supplementary affidavit filed by the University along with Annexure- SA/1 Series/SA2/SA3/SA4 and SA5. Perusal of each of the committee members resume, we have to draw inference that all the four experts committee members namely Mr. Sunil Kumar is expertise in a number of discipline namely Painting, Graphic, Applied Arts, Sculpture. Similarly, Soumendra Nath Lahiri is expert in Applied Arts, Dr. Madan Singh Rathore is expert in Fine Arts with Painting. Similarly, Professor (Dr.) Anupa Pandey is expert in History of Art. Mr. Sunil Kumar has multiple expertise including Graphic. These material information has not been placed on record by the University and so also learned Single Judge should have insisted the University to furnish the aforementioned material information so as to ascertain whether each of the committee members are expertise in any of the discipline for the post of Assistant Professor or not? To that extent, learned Single Judge has committed error in not appreciating summoning of records relating to expertise of each of the committee member.

15. Mr. Gyan Prakash Ojha, learned counsel for fourth respondent submitted that some of the appellants/applicants do not possess NET Examination. On this issue, learned counsel for the appellants have already pointed out from the advertisement read



with UGC Regulation dated 28.06.2010, in particularly, 4.2.2.3 visual (Fine) Arts discipline is relevant which has been cited (supra) to the extent that selected candidates are qualified and some of them have alternative qualification and it has been apprised in the CWJC and it has not been apprised. On this count, the learned Single Judge has committed error in reasoning in para 28.

16. In view of these facts and circumstances, the appellants have made out a *prima facie* case so as to interfere with the learned Single Judge order dated 29.04.2015 passed in CWJC No. 5580 of 2012 and connected matters. Accordingly, it is set aside while affirming the selection and appointment of the appellants. Resultantly, CWJC No. 5580 of 2012 and connected matters are dismissed. In the result, all the present Letters Patent Appeals are allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

