

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4319 of 2021

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Poonam Pathak D/O Late Narendra Dev Pathak, Female, Aged about
35 Years, presently residing at MGH-295, Kankarbagh Colony, P.S.-
Kankarbagh, P.O.-Lohianagar, District-Patna.

.....Petitioner

Versus

1. The Chancellor of the Universities of Bihar, Raj Bhawan, Patna
through its Officer on Special Duty, Raj Bhawan, Patna.
2. The State of Bihar through the Chief Secretary, Government of
Bihar, New Secretariat, Vikas Bhawan, Baily Road, Patna-
800015
3. The Principal Secretary, Education Department, Government of
Bihar, New Secretariat, Vikas Bhawan, Baily Road, Patna-
800015
4. The Director, Higher Education, Government of Bihar, New
Secretariat, Vikas Bhawan, Baily Road, Patna- 800015.
5. The Bihar State University Service Commission, Patna through
its Chairman, 8th Floor, Bihar School Examination Board,
Academic Building, Buddha Marg, Patna - 800001.
6. The University Grant Commission through its Chairman,
Bahadur Shah Zafar Marg, New Delhi - 110002.

.....Respondents

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Appearance :

For the Petitioner/s : Mr. Amit Pandey, Advocate
For the Respondent/s : Mr. Pawan Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 30-04-2021

Petitioner has prayed for the following relief(s):

- (i) For issuance of an order (s) / direction (s) or appropriate writ(s) for setting aside Para 5.4 of Statutes for appointment of Assistant Professor for the Universities of Bihar - 2020 as well as the identical provision contained in Para 7.1 of the Advertisement dated 21.09.2020 issued by Bihar State University Service Commission inasmuch as the same is in clear violation of the UGC Regulations, 2018 and further direct the Bihar State Public Service Commission to prepare the final merit list for filling up the advertised posts of Assistant Professors only on the basis of the performance of the short-listed candidates in the Interview . And/or
- (ii) For issuance of further order (s) / direction (s) or appropriate writ(s) for setting aside Para 3.7 read



with **Table : 1** of *Statutes for appointment of Assistant Professor for the Universities of Bihar – 2020* as well as the identical provision contained in Para 7.2 of the Advertisement dated 21.09.2020 issued by Bihar State University Service Commission which prescribes distribution of points for short - listing of candidates for the post of Assistant Professors and further direct the Bihar State University Service Commission to short-list the candidates for appointment on the post of Assistant Professors in Colleges as per **Table:3B** of UGC Regulations, 2018. It is respectfully submitted that for short-listing of candidates for interview for the post of Assistant Professors in Colleges different criteria has been provided in **Table:3B** of UGC Regulations, 2018 but the same has not been incorporated in the *Statutes for appointment of Assistant Professor for the Universities of Bihar – 2020*. In other words, no Statute has been framed by the Respondents for appointment of Assistant Professors in Constituent Colleges in Bihar and thus no appointment can be made on the post of Assistant Professors in Constituent Colleges in Bihar on the basis of criteria laid down in **Table : 1** of *Statutes for appointment of Assistant*



Professor for the Universities of Bihar – 2020

which is almost identical to Table 3A of UGC Regulations, 2018 with the only major difference being that M.Phil stands deleted in Table. I. It is worth noting that more than 90% of the advertised vacancies of the Assistant Professor are for the purpose of filling up the vacant post of Assistant Professors in various Constituent Colleges in Bihar and the rest 10% of the advertised vacancies are for the purpose of filling up the post of Assistant Professors in Universities. And/or

- (iii) For issuance of further order (s) / direction (s) or appropriate writ(s) for directing the Bihar State University Service Commission not to continue with the process of appointment on the post of Assistant Professor commenced vide advertisement dated 21.09.2020 without first incorporating necessary provisions in Statutes for appointment of Assistant Professor for the Universities of Bihar 2020 so as to minimize any suspicion of favoritism, discrimination or arbitrary award of marks thus ensuring the fairness and transparency of the process of interview.

And/or

- (iv) Pass such other order/orders which may appear fit and proper in the facts and circumstances of the instant case.”

It is not in dispute that the petitioner is otherwise eligible and can participate in the selection process in terms of advertisement dated 21.09.2020 [Annexure-3].

Petitioner lays challenge to the amendment dated



29th of August, 2020 brought in by the Secretary, Bihar State Universities Service Commission, vide Annexure-2 series whereby the provisions for award of certain marks for candidates possessing M.Phil. Degree stand deleted.

After the matter was heard for some time, learned counsel appearing for the petitioner, under instructions, states that petitioner be granted liberty to approach Respondent No. 1, namely the Chancellor of Universities of Bihar, Raj Bhawan, Patna, venting out the grievances made out in the present petition.

We are inclined to accept such prayer and, as such, as prayed for, dispose of the present petition in the following mutually agreeable terms:-

(a) Petitioner shall approach the appropriate authority, including Respondent No. 1, namely, The Chancellor of Universities of Bihar, Raj Bhawan, Patna, venting out the grievances.

(b) As and when any such request is received, the same shall be considered and decided in accordance with law, expeditiously and preferably within a period of eight weeks thereafter.

(c) The process of appointment and selection in



terms of Advertisement dated 21.09.2020 [Annexure-3] shall continue in terms of the existing statutory provisions, unless, of course, it stands interdicted, in the legislative wisdom of the appropriate authorities.

(d) We have not expressed any opinion on merits.

(e) All questions are left open.

(f) Liberty reserved to the petitioner to approach the Court afresh on the same and subsequent cause of action, if the need so arises. The petition as and when filed shall be taken up on priority basis.

Petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.04.2021
Transmission Date	

