

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5264 of 2018

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1. Dr. Kumari Smita and Ors daughter of Vinay Kumar Jha, Resident of Village- Horal Patti, P.S. Anandpur, District- Darbhanga.
 2. Meera Kumari, Wife of Rajeev Kumar Singh, Resident of Ward No. 14, Aura, P.S. and District- Samastipur.
 3. Sarita Devi @ Sarita Kumari, Wife of Sri Prem Kant Choudhary, resident of Village- Mohan Kariyam, P.S. Sakari, District- Madhubani.
 4. Chandan Kumar Singh, Son of Sri Bipendra Singh, resident of Mohalla- Harahi Trace, Station Road, P.S. and District- Darbhanga.

... .. Petitioners

Versus

1. Lalit Narayan Mithila University
2. Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
3. Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
4. Ayachi Mithila Mahila College, Bahera Benipur Darbhanga through its Principal.
5. Governing Body of the Ayachi Mithila Mahila College, Bahera Benipur, Darbhanga through its Secreta

... .. Respondents

with

Civil Writ Jurisdiction Case No. 3751 of 2020

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1. Rupam Kumari @ Rupam Das Wife of Amitabh Kumar Lal Das, Resident of FCI Godown, Katalwari, P.S.-Darbhanga, District-Darbhanga.
 2. Sandeep Kumar Jha Son of Shree Kaushal Kumar Jha, Resident of Town-Saidnagar, P.S.-Laheriasarai, District-Darbhanga.
 3. Gopal Sahu Son of Bauku Sahu, Resident of Village And PO-Pohaddi, P.S. Benipur, District-Darbhanga.

... .. Petitioners

Versus

1. Lalit Narayan Mithila University Kameshwar Nagar, Darbhanga through its Registrar.
2. Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
3. Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga.
4. Ayachi Mithila Mahila College, Bahera (Benipur) Darbhanga through its Principal
5. Governing Body of the Ayachi Mithila Mahila College, Bahera (Benipur)



Darbhanga through its Secretary.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 5264 of 2018)

For the Petitioner/s	:	Mr. Binodanand Mishra, Sr. Advocate
	:	Mr. Sandeep Kumar, Advocate
	:	Mr. Gunjan Kumar Jha, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, Advocate
	:	Dr. Ranjeet Kumar, Advocate
	:	Mr. Kanishk Kaustubh, Advocate

(In Civil Writ Jurisdiction Case No. 3751 of 2020)

For the Petitioner/s	:	Mr. Binodanand Mishra, Sr. Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, Advocate
	:	Mr. Apurva Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT

Date : 09-12-2025

Heard the parties.

2. Since common question of law is involved in both the writ applications, therefore, they are heard together and are being disposed of by this common judgment. For the sake of convenience and brevity, the facts of CWJC No. 5264 of 2018 are only being noticed, unless otherwise indicated.

3. The petitioners in both the present writ applications have prayed for the grant of following reliefs:-

- (i) writ mandamus commanding the in the nature respondents university to allow the petitioner to appear before the Selection Committee for recommendation of their case against the sanctioned posts of teachers.*
- (ii) For issuance of an order,*



direction or writ including the writ in the nature mandamus commanding the respondent university to approved the name of the petitioners for appointment against the sanctioned posts of teachers in the college.

(iii) For issuance of an appropriate declaration holding that since the posts have been sanctioned by order dated 06.10.2017 and the petitioners have been appointed prior to the said date as such their cases are required to be considered by the Selection Committee constituted for appointment on the sanctioned post.

(iv) For issuance of an appropriate declaration holding that one time relaxation granted by Bihar State Universities (Amendment) Act, 2015 will not apply to the college in question as no post teaching or non-teaching was sanctioned in the college prior to 19.04.2007.

(v) For any other relief(s) to which the Petitioner may be found entitled in the facts and circumstances of the present case.

4. The petitioners of CWJC No. 5264 of 2018,



inter alia, contend as follows:-

i) Petitioner no. 1, Kumari Smita, was appointed as a Lecturer on temporary basis in Hindi in the Ayachi Mithila Mahila College Bahera, Benipur, Darbhanga vide Office Order dated 03.04.2007 (Annexure-1). She gave her joining on 05.04.2007 which was accepted on the same day. By Office Order dated 06.06.2008 (Annexure-2), the petitioner no. 1 was appointed on the post of Lecturer on permanent basis in Hindi by the Secretary of the Governing Body of Ayachi Mithila Mahila College Bahera, Benipur, Darbhanga. She gave her joining on 07.06.2008.

ii) Petitioner No. 2, namely Mira Kumari, was appointed as a Lecturer on temporary basis in Zoology by the Secretary of the Governing Body of the College vide Office Order dated 12.02.2012 (Annexure-3). She gave her joining on 15.02.2012 which was accepted on the same day.

iii) Petitioner No. 3, namely Sarita Kumari, was appointed as a Lecturer on temporary basis in Political Science vide Office Order dated 25.03.2010 (Annexure-4) issued under the signature of the Secretary of the Governing Body of the College. She gave her joining on 26.03.2010 which was accepted on the same day.



iv) Petitioner No. 4, namely Chandan Kumar Singh, was appointed as a Lecturer on temporary basis in Anthropology vide Office Order dated 09.03.2015 (Annexure-5) issued under the signature of the Secretary of the Governing Body of the College. He gave her joining on 10.03.2015 which was accepted on the same day.

v) For compliance of the provision of the Bihar State Universities (Amendment) Act, 2015, *the Ayachi Mithila Mahila College Bahera, Benipur, Darbhanga* issued advertisement in daily newspaper *Dainik Bhaskar* dated 14.02.2017 (Annexure-6) for recommendation of the teachers working in the college by the Selection Committee and its approval by the University. From the intending candidates, applications were invited within a week. The candidates were required to submit their self-written applications enclosing certificates of Educational Qualification of Rs.1,000/- in cash. The advertisement also provided that the teachers working in the college would be given priority.

vi) In terms of the advertisement (Annexure-6), the petitioners submitted their application and deposited the requisite fee of Rs. 1,000/-. The Secretary of the College moved this Court seeking a direction to the Respondent-Principal



Secretary Education Department, Government of Bihar, Patna and Director Higher Education, Government of Bihar, Patna to take a final decision on the recommendations made by the *Lalit Narayan Mithila University, Darbhanga* with regard to sanctioning of post of teaching and non-teaching staffs of the college which is permanently affiliated by the *Lalit Narayan Mithila University, Darbhanga*. The case was heard and by order dated 21.04.2017 (Annexure-7), this Court directed the Principal Secretary Education Department, Government of Bihar, Patna to take final decision on the recommendations made by the University within a period of two weeks from the date of the order.

vii) In terms of the aforesaid order and judgment of this Court, the State Government sanctioned two posts in each subject totaling fifty-eight teaching posts and five non-teaching posts *vide* Letter dated 06.10.2017 (Annexure-8) which was communicated to the college by Memo No. 17730/34-2017 dated 14.11.2017.

viii) Since the State Government had sanctioned the posts as stated above, the Principal of the College requested the Vice-Chancellor of the University to constitute the Selection Committee for permanent absorption of teachers of the college.



The Principal of the College made it clear that the list of teachers have been submitted along with Letter dated 16.06.2016.

ix) The petitioners by application dated 15.02.2018 (Annexure-9) represented before the Vice-Chancellor that their cases be considered by the Selection Committee for absorption against the sanctioned posts. The petitioners in their representations stated that they had applied in terms of advertisement dated 14.02.2017 (Annexure-6) and had also deposited the requisite fee but they had learnt that the college had submitted list of teachers in which the names of the petitioners were not mentioned.

x) It was thus submitted by learned Senior Counsel for the petitioners that the names of the petitioners were not submitted for permanent absorption against the sanctioned posts for the reason that since the petitioners had been admittedly appointed after 19.04.2007, therefore, in terms of Section 57A(6) of the Bihar State Universities Act, 1976, their cases could not be considered. The petitioners, therefore, submit that Section 57A(6) of the Bihar State Universities Act, 1976 have no application to the case of the petitioners and, therefore, the case of the petitioners could not have been refused to be



considered relying upon Section 57A(6) of the Bihar State Universities Act, 1976. It is in the aforesaid backdrop that the learned Senior Counsel appearing for the petitioners submits that appropriate direction be issued to the Respondent-University to allow the petitioners to appear before the Selection Committee for recommendation of their case against the sanctioned posts of Teacher and the names of the petitioners should be approved for appointment against the sanctioned posts.

xi) *Per contra*, learned counsel appearing for the Respondent-University and Respondent-College submit that the relief being claimed by the petitioners is ill-conceived and cannot be granted for the reason that the advertisement which was issued on 14.02.2017 (Annexure-6) was only meant for teachers who had been appointed prior to 19.04.2007 and, therefore, the case of the petitioners could not have been considered under the said advertisement because the petitioners were admittedly appointed after 19.04.2007.

5. The petitioners of CWJC No. 3751 of 2020 were also admittedly appointed as Lecturers in different subjects after 19.04.2007. And these petitioners had also applied in terms of Advertisement dated 14.02.2017 for absorption.



ISSUE FOR CONSIDERATION

Whether in terms of advertisement dated 14.02.2017 (Annexure-6), the case of the petitioners could have been considered and sent to the Selection Committee for approval by the University against the posts sanctioned by the State Government on 06.10.2017?

6. In order to answer the aforesaid query, it is necessary to take note of the legislative need for introducing Section 57A(6) by the Bihar State University (Amendment) Act, 2015. The preamble of the said Amendment Act, 2015 clearly provides that the State Government had taken a policy decision to abolish the *Vitta-Rahit Shiksha Niti* and to provide grants to the institution including degree colleges *vide* Resolution No. 1846 dated 21.11.2008 and in the course of distribution of grants amongst the teachers of the affiliated degree colleges, it had been noted that many of the teachers working in such colleges for long duration were appointed by the governing body of the colleges. However, erstwhile Bihar College Service Commission recommendations in respect of them was not obtained for various reasons and since erstwhile Bihar College Service Commission had ceased to exist, and a new body, namely, Selection Committee at college level had



been introduced for making recommendations with regard to the appointment of teachers of the affiliated degree colleges under the Bihar State University Act, 1976, as amended from time to time, therefore, it was not practically possible for the Selection Committee to scrutinize individual cases unless one time relaxation was permitted for such appointees who could not be recommended by the erstwhile Bihar College Service Commission. It was, therefore, considered necessary in public interest to provide for empowerment to the Selection Committee to scrutinize the cases of all those working teachers appointed without the recommendation of the Bihar College Service Commission and accordingly, it is in this backdrop that subsection(6) was introduced in Section 57A of the Bihar State University Act, 1976, which reads as follows:-

"(6) The Selection Committee, subject to this Act, will complete the scrutiny of the cases of the teachers of affiliated degree colleges appointed prior to 19.04.2007, without the recommendation of the Bihar College Service Commission on the basis of qualifications in force at the time of appointment of such teachers upto 31.03.2017, otherwise such



appointments will not be treated valid. Thereafter the Governing Body of the college will accept the names recommended by the Selection Committee, which shall be finally approved by the concerned University Distribution of the amount of grant sanctioned by the State Government will be made amongst the teachers in the concerned affiliated degree colleges by its Governing Body upto 31.03.2017."

Emphasis Supplied

7. Section 57A(6), introduced a cut off date of 19.04.2007 for considering the cases of all such appointments made prior to 19.04.2007 who could not be recommended by erstwhile Bihar College Service Commission for various reasons and were continuing on the said post for long duration. It is for considering the cases of those appointees that subsection(6) was introduced in Section 57A of the University Act, 1976. Manifestly, this class of persons who were appointed prior to 19.04.2007 were completely different to that of the petitioners and similarly situated persons, who were admittedly appointed after 19.04.2007.

8. Subsequently, by Bihar State University



(Amendment) Act, 2017, sub-section(6) of Section 6 of Section 57A(6) was further amended, which reads as follows:-

"(6) Subject to this Act, The Selection Committee shall complete the scrutiny of the cases of the teacher's appointed without the recommendation of the Bihar College Service Commission prior to 19.04.2007 in the Affiliated Degree Colleges on the basis of the qualifications enforced at time of the appointment of such teachers till 31.03.2018. Otherwise such appointments will not be treated valid. Thereafter the Governing Body of the college will accept the names recommended by the Selection Committee, which shall be finally approved by the concerned University. Distribution of grant amount sanctioned by the State Government till 31.03.2018 shall be made amongst the teachers working in the concerned affiliated degree colleges by its Governing Body."

9. By the Amendment Act, 2017 only the date for consideration was extended from 31.03.2017 to 31.03.2018, but



substantively sub-section (6) remained the same.

10. In light of the aforesaid, it is clear that Section 57A(6) of the Bihar State Universities Act, 1976 is only meant to be applied for appointments done prior to 19.04.2007, whose recommendations could not be made by Bihar College Service Commission, as it ceased to exist, meaning thereby that Section 57A(6) of the Bihar State Universities Act, 1976 has no applicability to such cases where appointments have been done after 19.04.2007, as has happened in this case. However, after having clarified this aspect of the matter, it is necessary to reproduce the advertisement dated 14.02.2017 (Annexure-6) which is quoted hereinbelow for needful:-

“अयाची मिथिला महिला महाविद्यालय

बहेड़ा (बेनीपुर), दरभंगा- 847201

विज्ञापन संख्या -01/17

नियुक्ति सूचना

बिहार राज्य विश्वविद्यालय (संशोधित) अधिनियम-2015 के प्रावधान के अनुपालन के लिए अयाची मिथिला महिला महाविद्यालय में विश्वविद्यालय से अनुशंसित पदों पर कार्यरत शिक्षकों के पद पर अनुमोदन हेतु निम्नांकित पदों को विज्ञापित किए जाते हैं।

सहायक प्राध्यापक :- विषय:- हिंदी- 04, मैथिली- 07, अंग्रेजी- 03, संस्कृत- 02, फारसी- 01, बांग्ला- 01, पाली-01, प्राकृत- 01, नेपाली-01, उर्दू/अरबी-01, श्रम एवं समाज कल्याण- 02, ग्रामीण अर्थशास्त्र- 02, राजनीतिशास्त्र- 06, समाजशास्त्र- 06, दर्शनशास्त्र- 02, इतिहास- 05, प्राचीन भारतीय इतिहास- 04, मनोविज्ञान- 06, भूगोल- 03, गृहविज्ञान- 06, अर्थशास्त्र- 04, भौतिकी- 04, रसायनशास्त्र- 05, गणित- 05, जंतु विज्ञान- 03, वनस्पतिशास्त्र- 03, वाणिज्य- 07, पत्रकारिता- 01, पुस्तकालय विज्ञान- 01, नाट्यशास्त्र /ड्रामा- 01, संगीत-04, मानवशास्त्र- 03, सांख्यिकी- 01, भूगर्भशास्त्र- 02

इन पदों के लिए इच्छुक अभ्यर्थी विज्ञापन से एक सप्ताह से अन्दर स्वलिखित आवेदन में शैक्षणिक योग्यता संबंधी प्रमाणपत्रों की स्वअभिप्रमाणित छायाप्रति एवं एक हजार (1000) रुपए नगद राशि कॉलेज काउंटर पर जमा कर रसीद प्राप्त करेंगे। नियुक्ति में आरक्षण का पालन किया जाएगा।



नोट: महाविद्यालय में कार्यरत शिक्षकों
को ही प्राथमिकता दी जाएगी।

प्रधानाचार्य
(शासी निकाय के निर्देशानुसार)''

[Emphasis Supplied]

From the aforesaid advertisement, it is absolutely clear that the advertisement was issued only for complying with the provisions and requirements of Bihar State Universities (Amendment) Act, 2015. Sub-clause (6) was introduced under Section 57A of the Bihar State Universities Act, 1976, for absorption of all such appointments made prior to 19.04.2007, therefore, this advertisement was only meant to consider the cases of such teachers who were appointed prior to 19.04.2007 and not thereafter.

11. Since the advertisement in question was only meant for considering the cases of such teachers whose appointments were made prior to 19.04.2007 and whose recommendations could not be made by the Bihar College Service Commission, as it ceased to exist, therefore, the petitioners could not have applied under this advertisement. The Applications submitted by the petitioners in terms of this advertisement was completely misplaced and without understanding the true purport of the advertisement.

12. Under the aforesaid *lego factual* position, the Respondent-College was absolutely justified in not sending the



names of the petitioners to the Selection Committee because the petitioners did not qualify for consideration in terms of the advertisement in question. The relief, therefore, being claimed by the petitioners in the writ applications cannot be granted.

13. For the aforesaid reasons, both the writ applications are dismissed.

(Alok Kumar Sinha, J)

Gaurav Sinha/-

AFR/NAFR	AFR
CAV DATE	03.12.2025
Uploading Date	09.12.2025
Transmission Date	NA

