

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.528 of 2016

=====

Hemant Kumar Son of Shri Mahadeo Modi Resident of village -
Mahamdabad, P.O. Mirjahat, P.S. Lodipur, District - Bhagalpur

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna
2. The Secretary, Higher Secondary Education, Government of Bihar, Patna
3. The Secretary, Secondary Education, Government of Bihar, Patna
4. The Director, Higher Secondary Education, Government of Bihar, Patna
5. The Director, Secondary Education, Government of Bihar, Patna
6. The Regional Deputy Director Education, Government of Bihar, Bhagalpur
Division at Bhagalpur
7. The District Education officer, Bhagalpur
8. The Member Secretary, District Board Teacher Recruitment Committee,
Bhagalpur at Bhagalpur
9. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur at
Bhagalpur
10. The Principal, T.N.B. Law College, Bhagalpur at Bhagalpur
11. The Chancellor, Bhiar State , Raj Bhawan, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Adv.
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC-8.
For the University	:	Mr. Diwakar Yadav, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL JUDGMENT

Date : 23-06-2022

1. Heard the parties.

2. The petitioner by way of this writ petition assails
the decision of the State Government dated 25.08.2012,
whereby it seeks to oust all the candidates, who have done an
integrated five years course of LL.B. with graduation in subject
of Arts or Science.



3. Learned counsel for the petitioner submits that the petitioner had passed a five years integrated course and was awarded a degree of B.A. LL.B.. He had done studies in subject of Arts for three years and also had done studies in law subject. After having passed B.A. LL.B. course, he appeared and cleared the STET exam and has also has done B.ed course in the subject of Arts of Economics and Civics. Learned counsel submits that the petitioner had also passed Master's degree in Economics. However, on account of the decision taken by the State government, the petitioner is being deprived from participating in the selection process for the post of Assistant Teacher in the education department. It would be, therefore, opposite it to quote the decision of the state government as published in their publication guidelines dated 07.07.2012 for sessions 2012-13:-

12. बी० बी० ए०/बी० सी० ए०/बी० ई०/बी० एल०/बी० बी० ए०/बी० सी० ए०/बी० ई०/बी० एल० एवं अन्य तकनीकी योग्यताधारी अभ्यर्थी अन्य तकनीकी योग्यताधारी अभ्यर्थी शिक्षक पद हेतु शिक्षक नियोजन हेतु आवेदन दे सकते है ? आवेदन नहीं दे सकते है।

शारीरिक शिक्षक हेतु— कतिपय अभ्यर्थियों द्वारा यह सूचना प्राप्त हो रही है कि जिलो में शारीरिक शिक्षको की नियुक्ति की प्रक्रिया प्रारम्भ नहीं की गयी है। इस संदर्भ में आपका विभागीय पत्रांक -1592 दिनांक 03-08-2012



द्वारा निर्देशित किया जा चुका है कि जिन जिलों में शारीरिक शिक्षक हेतु नियमित या नियत पद के विरुद्ध इकाई रिक्ति उपलब्ध हो, तो शारीरिक शिक्षक के नियोजन हेतु प्रक्रिया सम्पन्न की जायेगी।

विहित आवेदन प्रपत्र में संशोधन हेतु— माध्यमिक शिक्षक के पद पर नियोजन हेतु प्रपत्र में शैक्षणिक योग्यता के हेतु स्तम्भ क्रमांक -2 में बी0 पी0 एड0 के अतिरिक्त बी0 पी0 ई0 प्रशैक्षणिक योग्यता के अभ्यर्थी भी आवेदन करेंगे।

आवेदन पत्र के भाग— ख में क्रमांक— 2 के अंतर्गत “बी0 पी0 एड0” के स्थान पर “बी0 पी0 एड0/ बी0 पी0 ई0” पढ़ा जाय।

विभागीय पत्रांक -1366 दिनांक 07-07-2012 की कंडिका 8 के (vi) ख के द्वितीय पंक्ति में विज्ञान समूह में “भौतिक, रसायन एवं जीव विज्ञान (Botany & Zoology) के स्थान पर रसायन एवं जीव विज्ञान (Botany & Zoology) पढ़ा जाय। साथ ही कंडिका -2 के उप कंडिका 6 (ख) एवं 8 के (vi) ख में अंकित भौतिक, रसायन एवं गणित को विलोपित समझा जाय।

माध्यमिक शिक्षक नियुक्ति से संबंधित सूचनाएँ शिक्षा विभाग (माध्यमिक शिक्षा) के बेबसाइट **www.educationbihargov.in** पर देखा जा सकता है।

अतः अनुरोध है कि उक्त की जानकारी सभी संबंधित



नियोजन इकाई की भेजने के साथ-साथ सभी स्तर के कार्यालयों के सूचना पट पर आम जानकारी हेतु प्रकाशित करने की कार्रवाई की जाय।

4. Learned counsel for the petitioner has submitted that the requirement for joining in B.A. courses, one must have two teaching subjects at the graduate level, as the petitioner did B.A. LL.B. five years integrated course and had two teaching subjects, he was allowed to join B.ed course and he completed the same in the session 2012-13 from Tilka Manjhi Bhagalpur University with teaching subjects economics and Political science. It is also pointed out that the petitioner further done M.A. in economics also. Keeping in view thereto, he submits that as the petitioner was possessed with much higher qualification than the qualification required for the post and also had possessed requisite technical qualification of B.Ed. The decision of the State government to oust him and similarly placed those who have done B.A. LL.B. and other integrated course is illegal and unjustified.

5. Per contra, counsel appearing for the State has submitted that as per the NCTE guidelines, a candidate can participate selection for teacher provided that he has studied the said subject at the graduate level. A second supplementary affidavit has been filed by the State and it is stated as under:-



“5. That in the session year 2002-2003 the Deponent had taken his admission in five years law course in T.N.B. Law college, Bhagalpur of T.M. Bhagalpur university and had successfully completed the said five years integrated law Degree course as a regular student under which in first two years i.e. Pre-Law Sessions the Deponent studied the following subject for the following marks.

History:- 200 Marks (Each year 100 marks)

Economics:- 100 Marks (Each year 50 Marks)

Sociology:- 100 Marks (Each Year 50 marks).

The photocopies of the marks sheet and admit cards showing the aforesaid subjects being studied by the Deponent in first two years as prelaw course. All concerned Identity Card to show the sessions of five years law course of the deponent are annexed herewith except prelaw part II Identity Card which could not be traced out by the deponent.

6. That the Pre-law syllabus of the five years Law Course of T.N.B. Law college Bhagalpur as well as Bishwanath Singh Institute of legal studies both under the T.M. Bhagalpur University are annexed herewith to show the chapters which are to be studied under the subject of History, Political Science, Sociology, Economics, English etc. at Pre- Law Stage.

It is humbly stated that the then syllabus



under which the deponent passed his five years law course could not be traced out despite due diligent efforts but the syllabus as annexed herein are same with only change in History subject that earlier it was called pre-constitution History and now it is called history of courts in pre-law part II but materials are identical.

7. That the detailed reasons of breakup of study of the deponent as stated above and then after taking admission in five years integrated law course in the year 2002-2003, Sessions, the Sessions was delayed due to delay in conducting examination and publishing result by the college and the university since 1st term Pre-Law Examination Result was published in 2004. 2nd term Pre-law Examination result published in 2005. 3rd term (LL.B. 1st Term) Examination result published in 2007, 4th Term (L.L.B Part 2) Examination published in 2007, 5th term (LL.B. Part 3 final) Examination result published in 2010.

It is humbly stated that the examinations were conducted and result in delayed otherwise the deponent could have been completed his five years LL.B. course in 2007.”

6. Learned counsel submits that the question whether the degree of B.A. LL.B. is equal to graduation is a policy decision of the government and relies on a judgment of this



court in Dara Singh Rabbani Vs. Vijay Bank in C.W.J.C. No.16870 of 2015 decided on 05.05.2016. Learned counsel submits that in the light of the above, the state government has rightly ousted all the candidates, who have done five years integrated law course with graduation along with law.

7. I have considered the submissions.

8. The LL.B. course, which is known as Bachelor in Law is being taught in the universities, as recognized by the Bar council of India. Bar Council of India has framed rules, which provides for the various law courses that can be offered to students. Earlier, law was being taught at the level of post graduation i.e. after a candidate had completed the graduate course he would be allowed to join LL.B. course, which was integrated three years course. While continuing to recognize the said three years course, the Bar Council introduced five year dual degree integrated course, as per the recommendations of the Directorate of Legal Education and Legal Studies and various integrated dual degree five year course were recognized and a student at the threshold of completing 12th class was entitled to join under graduate course component of integrated five years course, which may be in the form of social sciences and language namely in Arts B.A LL.B. in Science, namely



B.Sc. LL.B., Business Management namely BBA LL.B. and Commerce namely B.com LL.B.. The subjects were also outlined by the Bar Council and is a part of Bar Council of India rules. The law papers were also made an integral part of the study and as on today, admittedly there are several courses being offered to students at the under graduate level by the various universities and law colleges. Students, who passed the five years course, are awarded a degree jointly of B.A. LL.B., B.Sc. LL.B. and so on so forth as noted above.

9. After a person has passed the said examination like the petitioner, it is always open for the concerned students, to pursue further studies in the respective field of Arts, Science or Commerce or to pursue further studies in law. As has come on record, the petitioner has chosen to proceed in studies of Economics and Social Sciences and has acquired B.Ed degree as well as passed the STET exam, which is a pre requisite for appointment in Assistant Teacher.

10. In the circumstances, it cannot be said that the petitioner does not possess the requisite knowledge or does not have the qualification of not studying the subjects at the graduate level. The decision of the State government, therefore, in denying students, who have done a five years integrated



course to participate in the selection process for the post of Assistant Teacher is contrary to the provisions laid down by the Bar Council of India Rules, which have been framed under the Advocate's Act, 1961.

11. Apart from above, the decision of the authorities is an administrative decision and is not having any statutory force, and therefore, it would not weigh over and above the statutory rules framed by the Bar council. It is also noticed that there is no decision of the National Council of Teachers Education denying such candidates from participating in the selection process. On the other hand, this court notices that the petitioner has been allowed to participate and pursue the course of B.ed which is a recognized course by the NCTE. Thus, it does not lie in the amount of the state government to state that NCTE does not recognize the integrated course of B.A. LL.B..

12. In view thereof, the decision of the state government dated 25.08.2012, as communicated in the FAQ, is held to be bad in law and is accordingly set aside. The students who passed B.A. LL.B. or a similar under graduate five years integrated course shall be entitled henceforth to participate in the selection process for teachers provided that they possess the other requisite qualification of B.ED and passing of Teacher



Eligibility Test as held by the petitioner. The petitioner’s candidature should now be considered accordingly and if he is found to be in merit, the respondents shall consider his candidature for appointment.

13. The writ petition is allowed accordingly.

(Sanjeev Prakash Sharma, J)

amit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

