

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8860 of 2020

Dr. Perna Priya Daughter of Sri Kishore Kumar Sinha Resident of Flat No. 306, Block- B, Shree Ganesh Apartment, Urja Nagar, P.O. Danapur Cant., District- Patna, PIN- 801503, presently residing at Jai Prakash Nagar, Town/Village- Nagar Nigam Purnea, Anchal Purnea Purw, District- Purnea, PIN- 854301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department (Higher Education), Government of Bihar, Patna.
3. The Special Secretary, Education Department (Higher Education), Government of Bihar, Patna.
4. Bihar State University Service Commission through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
5. Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
6. Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr. Adv.
For the Respondent Nos. 4-6 : Mr. Pawan Kumar Chaudhary, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 21-05-2021

The present writ petition has been filed seeking the following reliefs:-

"(i) Issuance of an appropriate writ including a writ in the nature of writ of certiorari quashing the impugned part of the advertisement issued pursuant to the



notice dated 21.09.2020 (Annexure-6) of the respondent Bihar State University Service Commission (hereinafter referred to in short as BSUSC) inviting online applications in prescribed format only given in the said advertisement on website of the said Commission for regular appointment on the vacant posts of Assistant Professors in different Universities of the State of Bihar and its constituent colleges on the basis of requisition received from the Education Department, Government of Bihar, but unfortunately and surprisingly enough in the schedule annexed to the said advertisement / notice" in the list of the concerned (core) subjects of Zoology (at serial no. 1) and Botany (at serial no. 16)" in the column of its applied / relevant subjects there in no mention of "Bioinformatics" which is an allied subject in the core subjects of Botany and Zoology as duly accepted by the various Universities and Public Service Commissions and teaching institutions within our country on the basis of guidelines of University Grants Commission (hereinafter referred to in short as UGC) and so the matter relating



to appointments in "concerned (core) subjects of Botany and Zoology" should not be allowed unless and until the allied subject of "Bioinformatics" is added in it.

(ii) Issuance of an appropriate writ including a writ in the nature of writ of mandamus directing / commanding the respondents to forthwith issue a corrigendum to the effect that the allied subject of "Bioinformatics" had been added / included in the field of "concerned (core) subjects of Botany and Zoology" as notified in the Commission notice dated 21.09.2020.

(iii) Issuance of an appropriate writ including a writ in the nature of writ of certiorari quashing the impugned part of the corrigendum dated 17.11.2020 (Annexure-10) of the respondent BSUSC stating in the remarks column that "Hons. Degree in Botany /Zoology is essential." The same is not at all required hence it be kindly quashed."

2. The brief facts of the case are that the petitioner possesses the degree of M.Sc in Bioinformatics from the Banasthali University,



which she had obtained in the year 2010, whereafter, she was granted the certificate with regard to the same on 19.01.2011 by the said University. The petitioner is stated to have also passed the CSIR-UGC Test for Junior Research Fellowship and eligibility for lectureship (NET), which was held on 19.06.2011, whereafter she was issued the required certificate on 16.11.2011. The petitioner is stated to have attended various national / international seminars and conferences on Bioinformatics and its allied fields in between the year 2014-2017, apart from her research papers having been published in various leading journals. The petitioner is stated to have also acquired the Ph.D. Degree in the field of Biophysics, Molecular Biology and Bioinformatics from the University of Calcutta in the year 2019 and was granted the requisite certificate on 28.01.2020 by the University of Calcutta.

3. The Bihar State University Service Commission issued an advertisement / notice



dated 21.09.2020 for making regular appointments on the post of Assistant Professors in different universities and constituent colleges in various subjects including the subject "Botany" and online applications, in the prescribed format, were invited to be filed by 02.05.2020 (5:00 pm). The essential educational qualifications have been prescribed under Clause 4.1.A. of the aforesaid notice dated 21.09.2020, which is reproduced herein below:-

"4.1.A. (i) A Masters degree from any Indian University with 55% marks or an equivalent grade in a point scale, wherever grading system is followed, in concerned/relevant/allied subjects, or equivalent degree from any accredited foreign university. Relaxation of 5% marks will be given to candidates of Bihar State belonging to SC/ST/EBC-1 (non creamy layer)/BC-II (non creamy layer) categories, and Physically challenged candidates from any part of the Country at the Master's Degree level. But both benefits will not be admissible to the same candidate. A relaxation of 5% at



the Master's Degree level shall be provided to the Ph.D. Degree holders who have obtained their Master's Degree prior to September 19, 1991.

(ii) Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC or the CSIR, or a similar test accredited by the UGC, like SLET/SET or who are or have been awarded a Ph.D. Degree in accordance with UGC Regulations 2009 or 2016 and their amendments from time to time, as the case may be, shall be exempted from NET/SLET/SET But regarding recognition of SLET/SET the provision of UGC Regulation 2018 shall be valid.

Provided further that the candidates registered for Ph.D. programmes prior to July 11, 2009 shall be governed by the provisions of the then existing Ordinance /By-laws/Regulations of the institution awarding the degree and such candidates shall be exempted from the requirement of NET/SET/SLET for appointment in universities / colleges/institutions subject to fulfillment of the following conditions:



(a) The Ph.D. Degree of the candidate has been awarded in a regular mode;

(b) The Ph.D. Thesis has been evaluated by at least two external examiners;

(c) An open Ph.D. Viva Voce of the candidate has been conducted;

(d) The Candidate has published two research papers from his / her Ph.D. work, out of which at least one is in a referred journal;

(e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences /Seminars sponsored/funded/supported by the UGC/ICSSR/CSIR or any similar agency.

4. The learned Senior Counsel for the petitioner has also referred to the aforesaid essential educational qualifications and has submitted that a candidate is required to possess Masters Degree from any Indian University in the concerned / relevant / allied subjects and the allied subjects have been defined under Clause 5.7 of the said notice dated 21.09.2020, which refers to



Schedule-I. It is submitted that in Schedule-I, the allied subjects of the subject Botany, have been mentioned as follows:-

- (1) Microbiology
- (2) Biotechnology
- (3) Biochemistry
- (4) Bio Science
- (5) Environmental Science
- (6) Genetics
- (7) Molecular Biology

5. The learned Senior Counsel for the petitioner has submitted that realizing the fact that Bioinformatics has not been mentioned as an allied subject of the subject Botany and Zoology, the petitioner had filed a representation before the respondent authorities, bringing to their notice, the aforesaid discrepancy inasmuch as Bioinformatics has not been mentioned as an allied subject of the subject Botany.

6. It appears that the respondent authorities had realized their mistake, hence, the Secretary, Bihar State University Service Commission, Patna,



came out with a corrigendum dated 17.11.2020, with reference to the aforesaid advertisement/ notice in question, wherein Bioinformatics was declared as an allied / relevant subject of the subject Botany and Zoology, however with a remark that as far as the subject Botany is concerned, Hons. Degree in Botany is essential and as far as the subject Zoology is concerned, Hons. Degree in Zoology is essential.

7. The learned Senior Counsel for the petitioner has referred to the University Grants Commission Regulations on minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges and other measures for the maintenance of standards in higher Education, 2018 (Annexure-14 to the rejoinder affidavit filed by the petitioner), Regulation Nos. 3.1, 3.2, 3.3, 3.4 and 4.1.I. whereof are reproduced herein below:-

"3.1. The direct recruitment to the posts of Assistant Professor, Associate Professor and Professor in the Universities and



Colleges, and Senior Professor in the Universities, shall be on the basis of merit through an all-India advertisement, followed by selection by a duly-constituted Selection Committee as per the provisions made under these Regulations. These provisions shall be incorporated in the Statutes/Ordinances of the university concerned. The composition of such a committee shall be as specified in these Regulations.

3.2. The minimum qualifications required for the post of Assistant Professor, Associate Professor, Professor, Senior Professor, Principal, Assistant Librarian, Deputy Librarian, Librarian, Assistant Director of Physical Education and Sports, Deputy Director of Physical Education and Sports and Director of Physical Education and Sports, shall be as specified by the UGC in these Regulations.

3.3.

I. The National Eligibility Test (NET) or an accredited test (State Level Eligibility Test SLET/SET) shall remain the minimum eligibility for appointment of Assistant Professor and equivalent positions wherever provided in these Regulations.



Further, SLET/SET shall be valid as the minimum eligibility for direct recruitment to Universities/Colleges/Institutions in the respective State only:

Provided that candidates who have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil/ Ph.D. Degree) Regulation, 2009, or the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil/Ph.D. Degree) Regulation, 2016, and their subsequent amendments from time to time, as the case may be, shall be exempted from the requirement of the minimum eligibility condition of NET/ SLET/SET for recruitment and appointment of Assistant Professor or any equivalent position in any University, College or Institution.

Provided further that the award of degree to candidates registered for the M.Phil/Ph.D. Programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances / Bye-laws / Regulations of the Institutions awarding the degree. All such Ph.D.



candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/ Colleges/Institutions subject to the fulfillment of the following conditions:

- (a) The Ph.D. degree of the candidate has been awarded in regular mode only;
- (b) The Ph.D. thesis has been awarded by at least two external examiners;
- (c) An open Ph.D. viva voce of the candidate has been conducted;
- (d) The candidate has published two research papers from his / her Ph.D. work out of which at least one is in a refereed journal;
- (e) The candidate has presented at least two papers, based on his/her Ph.D. work in conferences / seminars/sponsored/ funded/supported by the UGC/ICSSR/CSIR or any similar agency.

The fulfillment of these conditions is to be certified by the Registrar or the Dean (Academic Affairs) of the University concerned.



II. The clearing of NET/SLET/SET shall not be required for candidates in such disciplines for which NET/SLET/SET has not been conducted.

3.4. A minimum of 55% marks (or an equivalent grade in a point-scale, wherever the grading system is followed) at the Master's level shall be the essential qualification for direct recruitment of teachers and other equivalent cadres at any level.

4.1.

I. Assistant Professor:

Eligibility (A or B):

A.

i) A Master's degree with 55% marks (or an equivalent grade in a point-scale wherever the grading system is followed) in a concerned/ relevant/ allied subject from an Indian University, or an equivalent degree from an accredited foreign university.

ii) Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC or the CSIR, or a



similar test accredited by the UGC, like SLET/SET or who are or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of M. Phil/Ph. D. Degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/ SLET/SET:

Provided, the candidates registered for the Ph.D. programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/Bye-laws/Regulations of the Institution awarding the degree and such Ph.D. candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:-

- (a) The Ph.D. degree of the candidate has been awarded in a regular mode;
- (b) The Ph.D. thesis has been evaluated by at least two external examiners;
- (c) An open Ph.D. viva voce of the candidate has been conducted;



(d) The candidate has published two research papers from his / her Ph.D. work, out of which at least one is in a refereed journal;

(e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences / seminars/sponsored/funded/ supported by the UGC/ICSSR/CSIR or any similar agency.

The fulfillment of these conditions is to be certified by the Registrar or the Dean (Academic Affairs) of the University concerned.

Note: NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted by the UGC, CSIR or similar test accredited by the UGC, list SLET/SET.

OR

B. The Ph. D degree has been obtained from a foreign university/institution with a ranking among top 500 in the World University Ranking (at any time) by any one of the following:(i) Quacquarelli Symonds (QS) (ii) the Times Higher Education (THE) or (iii) the Academic Ranking of World Universities (ARWU) of



the Shanghai Jiao Tong University (Shanghai).

Note: The Academic score as specified in Appendix II (Table 3A) for Universities, and Appendix II (Table 3B) for Colleges, shall be considered for short-listing of the candidates for interview only, and the selections shall be based only on the performance in the interview."

8. The learned Senior Counsel for the petitioner has thus submitted that neither the aforesaid University Grants Commission Regulations, 2018 nor the statutes for appointment of Assistant Professor for the Universities of Bihar-2020 nor the aforesaid notice / advertisement dated 21.09.2020 stipulates any such requirement that a candidate should possess Hons. Degree in any particular subject, especially in the subject for which application has been made for appointment as Assistant Professor. In this regard, it would be relevant to quote the "essential qualifications", required for the purposes of being appointed on the post of Assistant Professor, as mentioned



under Clause 3.3 of the Statutes for the Appointment of Assistant in the Universities of Bihar-2020, herein below:-

"3.3 Essential qualifications

3.3.1 A master degree with 55% marks or an equivalent grade in a point scale, wherever the grading system is followed, in Concerned/Relevant/Allied subjects. Relaxation of 5% marks for SC/ST/BC-I (Non-creamy layer)/BC-II (Non-creamy layer) Candidate of the State, while physically challenged persons from any part of the country will be given relaxation of 5% marks at Master's Degree. But both benefits shall not be admissible to the same candidate.

A relaxation of 5% shall be provided, (from 55% to 50% of the marks) to the Ph.D. Degree holders who have obtained their Master's Degree prior to 19 September 1991.

3.3.2 Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC or the CSIR, or a similar test accredited by the UGC, like



SLET/SET or who are or have been awarded a Ph.D. Degree in accordance with University Grants Commission (Minimum Standards and Procedure for Award of M. Phil/Ph.D. Degree) Regulations, 2009 or 2016 and their amendments from time to time as the case may be exempted from NET/ SLET/SET:

Provided that regarding recognition of SLET/SET the provisions of UGC Regulation 2018 shall be applicable.

Provided further that the candidates registered for Ph.D. programme prior to July 11, 2009 shall be governed by the provisions of the then existing Ordinances /By-laws/Regulations of the Institution awarding the degree and such Ph.D. candidates shall be exempted from the requirement of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/ Colleges/Institutions subject to fulfillment of the following conditions:

- (a) The Ph.D. Degree of the candidate has been awarded in a regular mode;
- (b) The Ph.D. Thesis has been evaluated by at least two external examiners:



(c) An open Ph.D. Viva Voce of the candidate has been conducted;

(d) The Candidate has published two research papers from his / her Ph.D. work, out of which at least one is in a referred journal (UGC 'Care' /SCOPUS).

(e) The candidate has presented at least two papers based on his/her Ph.D. work in conferences /Seminars sponsored/funded/ supported by the UGC/ICSSR/CSIR or any similar agency.

The fulfillment of these conditions is to be certified by the registrar or the Dean (Academic Affairs/Faculty) of the University concerned.”

9. It is further submitted by the Ld. Senior Counsel for the petitioner that though the respondent authorities have acted in a fair manner by declaring Bioinformatics to be an allied subject of the subject Botany and Zoology, however, the respondent- Bihar State University Service Commission, Patna, has faltered by prescribing an additional qualification of possessing Hons. Degree in Botany / Zoology, as the case may be, in case of



appointment as Assistant Professor in the subject of Botany and Zoology, if the candidate possesses Masters Degree in Bioinformatics, which is not only against the University Grants Commission regulations, 2018 but also against the provisions contained in statutes for appointment of Assistant Professor for the Universities of Bihar-2020 and against the notice / advertisement dated 21.09.2020, as aforesaid, as also amounts to changing the rules of the games midway, which, in any view of the matter, is not permissible inasmuch as in the original notice / advertisement dated 21.09.2020 itself, there is no prescription to the effect that a candidate is required to possess additional educational qualification, thus the insertion of additional qualification of possessing Hons. Degree in Botany / Zoology, as the case may be, by the respondent-Bihar State University Service Commission is de hors the statutes for appointment of Assistant Professor for the Universities of Bihar-2020, University Grants Commission Regulations, 2018 and the notice /



advertisement dated 21.09.2020, hence, the corrigendum dated 17.11.2020 is required to be quashed to the said extent.

10. Per contra, the learned counsel for the Respondent-University has submitted, by referring to Clause 3.8 of the aforesaid statutes for appointment of Assistant Professor for the Universities of Bihar-2020, that the eligibility of candidates with degree in concerned / relevant / allied subjects for any specific subjects is to be decided only by the Commission on the recommendation of a Committee consisting of two or three subject experts. At this juncture, it would be relevant to reproduce Clause 3.8 of the aforesaid statutes for appointment of Assistant Professor for the Universities of Bihar-2020, herein below:-

“3.8. Eligibility of candidates with degree in Concerned / Relevant/Allied Subjects:- The eligibility of candidates with degree in concerned / relevant/ allied subjects for any specific subjects will be



decided by the commission on the recommendation of a committee consisting of two or three subject experts. The equivalent of similar subjects with different names in different universities will be decided by committee consisting of two or three subject experts.”

11. The learned counsel for the Respondent-Commission has further submitted that the Hon'ble Madras High Court in a judgment dated 05.07.2018 passed in W.P. (MD) No. 3441 of 2018 (**Dr. G. Chandran vs. The Registrar, Tamil University Thanjavur & Ors.**) has been held in paragraph no. 28 as follows:-

“28. Whether a particular subject is relevant or allied with the concerned subject, or not is the matter of academic issue, which can only be decided by academicians and not by this Court. In this regard, the law is well settled and a number of decisions have been made in this regard, because, Court is not expert in academic matters and in cases of this nature, the Court cannot have the expertise/knowledge to decide as to whether the particular discipline or subject is equivalent or allied or relevant subject to



a particular or concerned subject. The following decisions of the Hon'ble Supreme Court can be usefully referred to appreciate the settled legal position.”

It is thus submitted that whether a particular subject is relevant or allied with the concerned subject or not is required to be decided by the Commission on the recommendation of a Committee consisting of two or three subject experts and not by the Courts and the Commission has already taken a decision and issued a corrigendum dated 17.11.2020, as aforesaid. It is thus submitted that in such view of the matter, the writ petition is fit to be dismissed.

12. I have heard the learned counsel for the parties and perused the materials available on record as also gone through the various statutes / regulations / documents on record, apart from the judgment referred to hereinabove by the learned counsel for the Respondent-Commission in the case of **Dr. G. Chandran** (supra).

13. This Court finds that the University Grants



Commission Regulations, 2018, as aforesaid, the statutes for appointment of Assistant Professor for the Universities of Bihar-2020 as also the aforesaid notice / advertisement dated 21.09.2020 prescribes the essential educational qualifications, which the applicants must hold for the purposes of appointment on the post of Assistant Professor and all the three documents admittedly prescribe that the applicants / candidates must possess Masters Degree from any Indian University with 55% marks or an equivalent grade in a point scale, wherever grading system is followed in the concerned / relevant/ allied subjects. It is also clear that the aforesaid University Grants Commission regulations, 2018, the statutes for appointment of Assistant Professor for the Universities of Bihar-2020 as also the notice / advertisement dated 21.09.2020, do not stipulate that a candidate should possess Hons. Degree in Botany / Zoology, as the case may be, in cases where applications have been made for appointment to the post of Assistant Professor in the subject Botany and



Zoology and such candidates are possessing Masters Degree in the allied subject i.e. Bioinformatics. Therefore, the corrigendum dated 17.11.2020, prescribing therein that Hons. Degree in Botany / Zoology is essential, as aforesaid, is clearly in teeth of the University Grants Commission Regulations, 2018, statutes for appointment of Assistant Professor for the Universities of Bihar-2020 and the aforesaid notice/advertisement dated 21.09.2020, hence is illegal, thus is quashed to the said extent and it is held that possessing of Hons. Degree in Botany / Zoology, as the case may be, in case of candidates applying for appointment on the post of Assistant Professor in the subject Botany / Zoology and possessing Masters Degree in the allied subject i.e. Bioinformatics, is not an essential educational qualification required by such candidates.

14. This Court would fail in its duty if it does not advert to the general proposition of law pointed out by the learned counsel for the respondent-Commission to the effect that the issue as to



whether a particular subject is relevant or allied with the concerned subject or not cannot be decided by the learned Courts. In this regard, it is stated that the proposition of law, being referred to by the learned counsel appearing for the Respondent-Commission, is well-settled and there is no quarrel with regard to the said principle of law. In the present case also, the Commission, probably on the recommendation of the Committee of experts, has decided, vide the corrigendum dated 17.11.2020, that Bioinformatics is an allied subject of the subject Botany and Zoology, hence, this Court finds that the issue as to whether a subject is allied or not does not arise for consideration in the present proceedings, thus, the argument advanced by the learned counsel for the Respondent-Commission is irrelevant as far as the present case is concerned.

15. Another aspect of the matter is that the rules of the games cannot be changed midway i.e. the criteria mentioned in the advertisement issued with regard to certain recruitment process cannot



be changed once the selection process has commenced. Reference in this regard be had to a judgment rendered by the Hon'ble Apex Court in the case of ***Hemani Malhotra vs. High Court of Delhi***, reported in **(2008) 7 SCC 11**, paragraphs no. 14 and 15 whereof are reproduced herein below:-

14. It is an admitted position that at the beginning of the selection process, no minimum cut-off marks for viva voce were prescribed for Delhi Higher Judicial Service Examination, 2006. The question, therefore, which arises for consideration of the Court is whether introduction of the requirement of minimum marks for interview, after the entire selection process was completed would amount to changing the rules of the game after the game was played. This Court notices that in *K. Manjusree v. State of A.P.* [(2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841] the question posed for consideration of this Court in the instant petitions was considered and answered in the following terms:

“33. The Resolution dated 30-11-2004



merely adopted the procedure prescribed earlier. The previous procedure was not to have any minimum marks for interview. Therefore, extending the minimum marks prescribed for written examination, to interviews, in the selection process is impermissible. We may clarify that prescription of minimum marks for any interview is not illegal. We have no doubt that the authority making rules regulating the selection, can prescribe by rules, the minimum marks both for written examination and interviews, or prescribe minimum marks for written examination but not for interview, or may not prescribe any minimum marks for either written examination or interview. Where the rules do not prescribe any procedure, the Selection Committee may also prescribe the minimum marks, as stated above. But if the Selection Committee wants to prescribe minimum marks for interview, it should do so before the commencement of selection process. If the Selection Committee prescribed minimum marks only for the written



examination, before the commencement of selection process, it cannot either during the selection process or after the selection process, add an additional requirement that the candidates should also secure minimum marks in the interview. What we have found to be illegal, is changing the criteria after completion of the selection process, when the entire selection proceeded on the basis that there will be no minimum marks for the interview.”

From the proposition of law laid down by this Court in the above mentioned case it is evident that previous procedure was not to have any minimum marks for viva voce. Therefore, prescribing minimum marks for viva voce was not permissible at all after the written test was conducted.

15. There is no manner of doubt that the authority making rules regulating the selection can prescribe by rules the minimum marks both for written examination and viva voce, but if minimum marks are not prescribed for viva voce before the commencement of



selection process, the authority concerned, cannot either during the selection process or after the selection process add an additional requirement/qualification that the candidate should also secure minimum marks in the interview. Therefore, this Court is of the opinion that prescription of minimum marks by the respondent at viva voce test was illegal.

16. This aspect of the matter has also been considered by the Hon'ble Apex Court in the case of P. K. Ramachandra Iyer v. Union of India, reported in 1984 (2) SCC 141, Umesh Chandra Shukla v. Union of India, reported in 1985 (3) SCC 721, Durgacharan Misra v. State of Orissa, reported in 1987 (4) SCC 646 and Maharashtra State Road Transport Corporation v. Rajendra Bhimrao Mandve, reported in 2001 (10) SCC 51.

17. Consequently, this Court finds that the respondent- Bihar State University Service Commission, Patna, by a corrigendum dated 17.11.2020 has changed the rules of the game midway, by prescribing an additional qualification of possessing Hons. Degree in Botany / Zoology, as



the case may be, in case of appointment as Assistant Professor in the subject of Botany and Zoology, if the candidate possesses Masters Degree in Bioinformatics, which in any view of the matter has also been found by this Court to be not only against the University Grants Commission regulations, 2018 but also against the provisions contained in statutes for appointment of Assistant Professor for the Universities of Bihar-2020 and against the notice / advertisement dated 21.09.2020, especially in view of the fact that the said three documents nowhere prescribes that a candidate is required to possess the aforesaid additional educational qualification, hence, the corrigendum dated 17.11.2020 is required to be quashed on this ground as well.

18. Considering the facts and circumstances of the present case and for the reasons mentioned hereinabove in the preceding paragraphs, the present writ petition is allowed and the Respondent-Commission is directed to consider the case of the petitioner for appointment on the post



of Assistant Professor in the subject Botany /
Zoology, after granting an opportunity to the
petitioner to submit online application, in
accordance with the observations made by this
Court in the preceding paragraphs.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	09.03.2021
Uploading Date	24.05.2021
Transmission Date	NA

