

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10669 of 2024

Rahul Singh Son of Sri Vijay Pal Singh Resident of mohalla- Brahmpur near
Gaddi Chowk P.O.-Budaun, P.S.- Kotwali Sadar, District- Budaun, Uttar
Pradesh- 243601

... .. Petitioner/s

Versus

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

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10671 of 2024

Deepti Gupta Daughter of Ashok Kumar, R/o House No. 14/107, Near St.
Peters School, Mandi Sayeed Khan, Agra, (U.P.) 282002, Presently Residing
at House No. 194, Anchal Niwas, Chainpura, P.S.- Gopalpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education (Higher), Govt. of Bihar, Patna.
2. The Bihar State University Service Commission, through its Secretary, Buddha Marg, Patna.
3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10673 of 2024

Kumari Ranjana Wife of Rajiv Ranjan, A-1305, Ahinsha Vatika, Loni Road ,
Near Ramnagar gurudwara, P.S. Shahdara, District- North East Delhi-
110032.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Education (Higher), Govt. of Bihar, Patna.
- 2. The Bihar State University Service Commission through its Secretary, Buddha Marg, Patna.
- 3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10829 of 2024

Sachchida Nand Mishra Son of Bimal Prasad Mishra, Resident of Village Laxmisagar P.S. Lalit Naraan Mithila University, District - Darbhanga.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of education (Higher), Govt. of Bihar, Patna.
- 2. The Bihar State University Service Commission through Its Secretary, Buddha Marg, Patna.
- 3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10830 of 2024

Rakesh Raushan Son of Subhash Jha, R/o Village and P.O.- Mahisi, P.S. Mahisi, District- Saharsa.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Education (Higher), Govt. of Bihar, Patna.
- 2. The Bihar State University Service Commission, through its Secretary, Buddha Marg, Patna.
- 3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10831 of 2024

Neelesh Kumar Lodhi S/o Bhim Singh, R/o D-8, 33, Futa Road Bhanjanpura, Sherpur, P.S. Driyapur, District- North East Delhi 110094.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Education

- (Higher), Govt. of Bihar, Patna.
2. The Bihar State University Service Commission through its Secretary, Buddha Marg, Patna.
3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

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Acts/Sections/Rules:

- Bihar Official Language Act, 1950
- Statutes for appointment as Assistant Professor in the Universities of Bihar, 2020

Cases referred:

- Park Leather Industry (P) Limited and Another v. State of U.P. and Others, reported in (2001) 3 SCC 135
- Dr. Sachidanand Sinha v. The Collector, Patna, and Others, reported in 1989 PLJR 1141
- Balbir Kaur and Another v. Uttar Pradesh Secondary Education Services Selection Board, Allahabad and Others, reported in (2008) 12 SCC 1
- Commissioner of Trade Tax, Uttar Pradesh v. Associated Distributors Limited, reported in (2008) 7 SCC 409
- Khichri Ram v. The State of Bihar and Others, reported in 2009 (2) PLJR 265
- Employees’ State Insurance Corporation v. Union of India and Others, reported in (2022) 11 SCC 392

Writ - filed for setting aside the notice by which the Bihar State University Service Commission has shortlisted the candidates for calling them for the purpose of interview on the basis of marks obtained by them under educational qualifications as per the parameters given in the Advertisement for appointment as Assistant Professors.

In the English version of the Advertisement, it is not mentioned that criteria for shortlisting of the candidates have been laid down for calling them for interview. However, in the Hindi version of the Advertisement, it has been mentioned that the criteria for shortlisting the candidates are for the purpose of interview.

Held - in a case of conflict between Hindi and English version, the language of the State, being Hindi, it is the Hindi version which will prevail. Therefore, in case of conflict between Hindi and English version, the Hindi version shall prevail. (Para 23)

In case of conflict between the terms of the advertisement and service regulation, the service regulation shall prevail. (Para 24)

If the terms of the Advertisement in Hindi Version, the provisions of the Statute and English version of the Advertisement are read together, there is no iota of doubt that shortlisting of the candidates is to be done as per the parameters/criteria prescribed for the purpose of interview. (Para 25)

Writ petition is dismissed. (Para 28)

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at House No. 194, Anchal Niwas, Chainpura, P.S.- Gopalpur, District- Patna.

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Civil Writ Jurisdiction Case No. 10673 of 2024

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Sachchida Nand Mishra Son of Bimal Prasad Mishra, Resident of Village Laxmisagar P.S. Lalit Naraan Mithila University, District - Darbhanga.

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Civil Writ Jurisdiction Case No. 10830 of 2024

Rakesh Raushan Son of Subhash Jha, R/o Village and P.O.- Mahisi, P.S. Mahisi, District- Saharsa.

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Versus

- 1. The State of Bihar through the Principal Secretary, Department of Education (Higher), Govt. of Bihar, Patna.
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- 3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10831 of 2024

Neelesh Kumar Lodhi S/o Bhim Singh, R/o D-8, 33, Futa Road Bhanjanpura, Sherpur, P.S. Driyapur, District- North East Delhi 110094.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Principal Secretary, Department of Education



- (Higher), Govt. of Bihar, Patna.
- 2. The Bihar State University Service Commission through its Secretary, Buddha Marg, Patna.
 - 3. The Chairman of the Bihar State University Service Commission, Buddha Marg, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 10669 of 2024)
For the Petitioner/s : Mr.Kumar Kaushik
For the State : Mr. P. K. Shahi, AG
Ms. Anukriti Jaipuriyar, AC to AG
For the BSUSC : Mr. Harsh Singh
(In Civil Writ Jurisdiction Case No. 10671 of 2024)
For the Petitioner/s : Mr.Sanjay Kumar
For the State : Mr. P. K. Shahi, AG
Ms. Anukriti Jaipuriyar, AC to AG
For the BSUSC : Mr. Rakesh Kumar Singh
(In Civil Writ Jurisdiction Case No. 10673 of 2024)
For the Petitioner/s : Mr.Sanjay Kumar
Ms. Meena Kumari
For the Respondent/s : Mr.Standing Counsel 8
For the BSUSC : Mr. Binod Jee Verma
For the BSUSC : Mr. Harsh Singh
(In Civil Writ Jurisdiction Case No. 10829 of 2024)
For the Petitioner/s : Mr.Sanjay Kumar
For the State : Mr. Sarvesh Kumar, GP 24
(In Civil Writ Jurisdiction Case No. 10830 of 2024)
For the Petitioner/s : Mr.Sanjay Kumar
For the State : Mr. P. K. Shahi, AG
Ms. Anukriti Jaipuriyar, AC to AG
For the BSUSC : Mr. Harsh Singh
(In Civil Writ Jurisdiction Case No. 10831 of 2024)
For the Petitioner/s : Mr.Sanjay Kumar
For the State : Mr. P. K. Shahi, AG
Ms. Anukriti Jaipuriyar, AC to AG
For the BSUSC : Mr. Harsh Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

ORAL

Date : 22-07-2024

Since common question of fact and law has been raised
in all these six writ applications, as such, all writ applications are
heard together and are being disposed by a common order.



2. These writ applications have been filed by the petitioners for setting aside the notice, dated 04.07.2024 (Annexure P 9 to CWJC No. 10669 of 2024), by which the respondent-Bihar State University Service Commission has shortlisted the candidates for calling them for the purpose of interview on the basis of marks obtained by them under educational qualifications as per the parameters given in the Advertisement No. AP-MATH-23/20-21, dated 21.09.2020, for appointment as Assistant Professors in different Universities of Bihar in different subjects.

3. The petitioners have further prayed for a direction to the Bihar State University Service Commission (in short, 'the Commission') to allow them to appear in the interview, to be started from 22.07.2024 to 26.07.2024, and thereafter to publish the final merit list in their respective subjects on the basis of their performance in the educational qualification and interview.

4. Learned Counsel for the petitioners, referring to Clause 7 of the Advertisement regarding selection process, particularly, Clause 7.2, submits that in the English version of the Advertisement, it is not mentioned that criteria for shortlisting of the candidates have been laid down for calling them for interview. They, however, submit that in the Hindi version of the



Advertisement, at Clause 7.2, it has been mentioned that the criteria for shortlisting the candidates, as prescribed in Table-1, are for the purpose of interview. It is further submitted that as per Clause 7.1 of the Advertisement, the shortlisting of the candidates on the basis of criteria fixed under the Table given in Clause 7.2 of the Advertisement is not for calling the candidates for the purpose of interview.

5. Learned Counsel for the petitioners submits that taking note of the selection criteria at Clause 7.2 of the Advertisement, a co-ordinate Bench of this Court granted interim relief in favour of the petitioners of CWJC Nos. 10073 and 10068 of 2024, directing the Commission to allow the petitioners to appear in the interview for the post of Assistant Professors in their respective subjects. He relied on a decision of the Supreme Court in the case of **Park Leather Industry (P) Limited and Another v. State of U.P. and Others**, reported in **(2001) 3 SCC 135**.

6. Learned Counsel for the petitioners lastly submits that the thrust of their argument is the interim order passed by a co-ordinate Bench of this Court, in CWJC Nos. 10073 and 10068 of 2024.

7. Learned Counsel for the Commission places reliance on the Statutes for appointment as Assistant Professor in the



Universities of Bihar, 2020, and submits that as per Clause 3.6.2 of the Statutes, the procedure for interview shall be decided by the Commission. Clause 3.7 of the Statutes deals with scrutiny and shortlisting of candidate, which says that shortlisting of candidate shall be based on the points scored by them in academic qualification and academic achievements as enumerated in Table-1. Clause 3.9 of the Statutes prescribes number of candidates to be called for interview and says that the number of candidates to be called for interview shall be decided by the Commission.

8. Upon conjoint reading of Clauses 3.6.2, 3.7 and 3.9 of the Statutes, it is manifest that scrutiny of applications forms and shortlisting of candidates is to be done solely for the purpose for calling the candidates for interview.

9. Further Clause 3.6.2 read with Clause 5.7 of the Statutes reflects that the power has been given to the Commission to call candidates for the interview on the basis of the procedure decided by it.

10. In terms of Clause 3.9 of the Statutes, the Commission, in its resolution, dated 19.06.2020, has decided to call three times the number of vacancies advertised in each category for the purpose of interview and on that basis, the cut off marks for calling the candidates for the interview is decided.



11. The issue with regard to determination of cut off marks and the eventuality where the number of candidates securing the cut off marks was more than three times of the number of vacancies was raised before this Court by a candidate in CWJC No. 1412 of 2023 (Dr. Pranav Kumar v. The State of Bihar and Others), wherein this Court, vide order, dated 31.01.2023, allowed the Commission to take a decision at its own level on this issue.

12. Pursuant to the aforesaid direction, the Commission, in its 97th Meeting held on 19.04.2023, decided to allow candidates who had obtained cut off marks even beyond three times the number of vacancies to participate in the interview.

13. In the Hindi version of the Advertisement, Clause 7.2 clearly states that shortlisting would be for the purpose of interview and the word “साक्षात्कार” (interview) is clearly mentioned. There is no irreconcilable discrepancy between the English and Hindi version of the Advertisement. The petitioners did not obtain cut off marks.

14. Learned Counsel also argued that in case of conflict between Hindi version and the English version, the contents of the Hindi version shall prevail in view of the Bihar Official Language Act, 1950 and the decision of the Full Bench of this Court on this



issue, in the case of **Dr. Sachidanand Sinha v. The Collector, Patna, and Others**, reported in **1989 PLJR 1141**. He also relied upon a decision of the Supreme Court, in the cases of **Balbir Kaur and Another v. Uttar Pradesh Secondary Education Services Selection Board, Allahabad and Others**, reported in **(2008) 12 SCC 1**, and **Commissioner of Trade Tax, Uttar Pradesh v. Associated Distributors Limited**, reported in **(2008) 7 SCC 409**.

15. He lastly argued that Hindi version of the Advertisement as well as the provisions of the Statutes for appointment were not placed before the co-ordinate Bench of this Court at the time of passing of the interim order.

16. I have heard learned Counsel for the parties concerned and have gone through the terms of the Advertisement and the Statutes, along with other materials available on record.

17. Both versions of the Advertisement, i.e. Hindi and English, have been placed on record by learned Counsel for the petitioners. Clause 7.2 of the Hindi version of the Advertisement lays down that shortlisting would be done for the purpose of interview. The word "साक्षात्कार" (interview) is clearly mentioned in the Advertisement. Clause 7.2 of the Hindi Version of the Advertisement is quoted herein below:



“ 7.2 विश्वविद्यालय में सहायक प्राध्यापकों के पद हेतु साक्षात्कार के लिए अभ्यर्थियों के चयन संबंधी मानदंड निम्नलिखित तालिका के अनुरूप किया जायेगा—

तालिका

क्र०स०	शैक्षणिक रिकार्ड	स्कोर(अंकों में)			
1.	स्नातक	80% एवं उससे ऊपर = 15	60% एवं उससे ज्यादा तथा 80 % से कम =13	55% एवं उससे ज्यादा और 60% से कम =10	45% से ज्यादा और 55% से कम =05
2.	स्नातकोत्तर	80% एवं उससे ऊपर = 25	60% एवं उससे ज्यादा तथा 80 % से कम =13	55% एवं उससे ज्यादा(अनुसूचित जाति/अनुसूचित जन जाति/बी०सी०1/बी०सी०2 एवं दिव्यांग की स्थिति में 50%) तथा 60% के कम=20	
3.	पी०—एच०डी०	30			
4.1	जे०आर०एफ० के साथ नेट	07			
4.2	नेट	05			
4.3	स्लेट /सेट	03			
5.	“शोध प्रकाशन समीक्षित (peer reviewed) अथवा विश्वविद्यालय अनुदान आयोग. द्वारा सूचीबद्ध जर्नल में प्रकाशित प्रत्येक शोध प्रकाशन हेतु 2 अंक”	10			
6.	शिक्षण/पोस्ट डॉक्टरल का अनुभव (प्रत्येक एक वर्ष के लिए 02 अंक) #	10			
7	पुरस्कार :- अधिकतम 03 अंक				
7.1	अन्तर्राष्ट्रीय/राष्ट्रीय स्तर (अन्तर्राष्ट्रीय संगठन/भारत सरकार/भारत सरकार द्वारा मान्यता प्राप्त राष्ट्रीय स्तर के संस्थाओं द्वारा पुरस्कार दिए जाने की स्थिति में)	03			
7.2	राज्य स्तर (राज्य सरकार द्वारा पुरस्कार दिए जाने की स्थिति में)	02			

तथापि, यदि शिक्षण/पोस्ट डॉक्टरल अनुभव की अवधि 1 वर्ष से कम होने की स्थिति में अंक समानुपातिक रूप से घटाए जाएंगे। इनका लाभ संबंधित विश्वविद्यालय के कुलसचिव द्वारा प्रतिहस्ताक्षरित प्रमाण—पत्र के आधार पर मिलेगा।

नोट:—

(क) (i) पी०एच०डी० :- 30 अंक ।



(ii) जे0आर0एफ0/नेट/सेट :- अधिकतम 07 अंक।

(iii) पुरस्कार कोटि में :- अधिकतम 03 अंक।

(ख)

अकादमिक स्कोर :- 80 अंक।

शोध प्रकाशन :- 10 अंक।

शिक्षण अनुभव :- 10 अंक।

कुल :- 100 अंक।

18. In Clause 7.2 of the English version of the Advertisement, the criteria for shortlisting of candidate for the purpose of Assistant Professor is mentioned, but the word ‘interview’ is missing in that clause.

19. Clause 3.6.2 of the Statutes says that procedure for interview shall be decided by the Commission. Clause 3.7 of the Statutes lays down that scrutiny and shortlisting of candidates shall be based on the points scored by them in academic qualification and academic achievements, as enumerated in Table-1. Table-1, as mentioned in the Statutes, is part of the Advertisement. Clause 3.9 of the Statutes says that number of candidates to be called for interview shall be decided by the Commission.

20. It is the specific case of the Commission that the Commission, in terms of Clauses 3.7 and 3.9 of the Statutes, in its resolution passed in its 24th Meeting held on 19.06.2020, has decided that the number of candidates to be called for interview will normally be three times of the advertised vacancies, but the



Commission may increase this number if it deem necessary to accommodate and ensure availability of requisite number of candidates in certain categories. On the basis of the above, the cut off marks for interview of candidates is decided. It is also relevant to notice that pursuant to the direction of this Court, in CWJC No. 1412 of 2023, the Commission, in its 97th Meeting held on 19.04.2023, decided to allow candidates who obtained cut off marks even beyond three times the number of vacancies to participate in the interview.

21. Section 2 of the Bihar Official Language Act, 1950, says as follows:

“2. Official language. - Subject to the provisions of Articles 346, 347 and 348 of the Constitution of India, the language to be used for the official purposes of the State shall be Hindi in Devanagari script.”

22. In the case of **Associated Distributors Limited** (supra), the Supreme Court has held that the official language of the State of Uttar Pradesh is Hindi and if any difference is found between the notifications in English and Hindi, the notification issued in Hindi will be applicable.

23. A Division Bench of this Court, in the case of **Khichri Ram v. The State of Bihar and Others**, reported in **2009**



(2) **PLJR 265**, relying upon the Full Bench decision, in the case of **Dr. Sachidanand Sinha** (supra), held that in a case of conflict between Hindi and English version, the language of the State, being Hindi, it is the Hindi version which will prevail. Therefore, in case of conflict between Hindi and English version, the Hindi version shall prevail.

24. The Supreme Court, in the case of **Employees' State Insurance Corporation v. Union of India and Others**, reported in **(2022) 11 SCC 392**, has decided that in case of conflict between the terms of the advertisement and service regulation, the service regulation shall prevail.

25. If the terms of the Advertisement in Clause 7.2 of the Hindi Version, the provisions of the Statute and Clause 7.2 of the English version of the Advertisement are read together, there is no iota of doubt that shortlisting of the candidates is to be done as per the parameters/criteria prescribed for the purpose of interview.

26. The responsibility of the Court is to interpret the executive action, like advertisement, in the manner which eliminates any element of hardship, injustice, absurdity or inconvenience. Where there is ambiguity in the meaning of the text, the Court must also give due regard to the consequence of the interpretation done. If Clause 7.2 of the English version of the



Advertisement is interpreted in the manner that shortlisting is done not for the purpose of interview, the consequence would be that thousands of thousands of candidates who have applied for appointment as Assistant Professor under various subjects would be required to be called for interview, causing great hardship to the Commission in selection process, particularly when the Commission, under its authority, has decided to call the candidates after shortlisting for interview to the extent of three times the number of vacancies advertised and on that basis, cut off marks is decided.

27. Considering the aforesaid discussion, on the fact as well as on law, I come to the conclusion that the petitioners are not entitled to be called for interview unless they secure the cut off marks notified by the Commission under various categories, vide its notice, dated 04.07.2024 (Annexure P 9 to CWJC No. 10669 of 2024).

28. These writ applications are, accordingly dismissed.

29. At this stage, learned Counsel appearing on behalf of the petitioners submits that the Commission, during the course of shortlisting, has not awarded the marks correctly to the candidates, as per the parameters/criteria under Table-1 of Clause 7.2 of the Advertisement.



30. It is made clear that this Court has not gone into the issue of incorrect marks awarded by the Commission and the petitioners shall be at liberty to raise this issue by way of separate writ petition.

31. The statement of marks obtained by the petitioner of CWJC No. 10669 of 2024 was produced by the Commission before this Court in a sealed cover. The Court opened the envelop and found that the petitioner has not secured the cut off marks fixed for unreserved category. The envelope containing the statement of marks has been re-sealed by the Court Master and the same has been handed over to Mr. Harsh Singh, learned Counsel for the Commission.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	23-07-2024
Transmission Date	N/A

