

**IN THE HIGH COURT OF JUDICATURE AT PATNA****Letters Patent Appeal No.573 of 2025****In****Civil Writ Jurisdiction Case No.19251 of 2024**

Niranjan Kumar Nirala Son of Late Janardan Mandal, Resident of Village - Bhawanipur, P.S. - Singheshwar, District- Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. Bihar State University Service Commission, 8th floor Bihar School Examination Board Academic Building, Buddha Marg Patna - 01, through its Secretary.
4. Chairman, Bihar State University, Service Commission, 8th floor Bihar School Examination Board Academic Building, Buddha Marg, Patna.
5. Secretary, Bihar State University Service Commission, 8th floor Bihar School Examination Board Academic Building, Buddha Marg, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Binodanand Mishra, Sr. Adv. Mr. Saumya Sinha, Adv. Mr. Gunjan Kumar Jha, Adv.
For the State	:	Mr. Anjani Kumar, AAG-4 Mr. Deepak Sahay Jamual, AC to AAG-4
For the B.S.U.S.C.	:	Mr. Rakesh Kumar Singh, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE**and****HONOURABLE MR. JUSTICE HARISH KUMAR****ORAL ORDER****(Per: HONOURABLE THE CHIEF JUSTICE)**

6 22-04-2026 This Letters Patent Appeal has been filed challenging the order dated 08.04.2025, passed by the learned Single Judge in C.W.J.C. No. 19251 of 2024, in dismissing the writ petition as well as imposing cost of rupees twenty-five thousand on the petitioner which was directed to be deposited with the legal aid





cell of the Patna High Court.

2. The petitioner filed the writ petition seeking for following reliefs:-

“i. For issuance of an order, direction or writ including writ in the nature of Mandamus commanding the Respondents to consider the case of the Petitioner for appointment as Assistant Professor in 'Mathematics' in pursuance of advertisement No 23/20-21 dated 21/9/2020 issued by the Bihar State University Service Commission.

ii. For issuance of an order, direction or writ including writ in Mandamus commanding the Respondents to count the period of teaching experience in the affiliated college (ALY College Triveniganj, Supaul) affiliated to B.N.Mandal University, Madhepura.

iii. For issuance of an order, direction or writ including writ in the nature of Mandamus commanding the Respondents to recommend the name of the Petitioner as Assistant Professor after for appointment considering the entire teaching experience period of the Petitioner.

iv. For issuance of an appropriate declaration holding that Petitioner is entitled for teaching experience marks for his teaching in the affiliated college as the teaching experience certificate has been duly signed by the Principal of the college and countersigned by the Registrar of the University.





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

3. When the writ petition was taken up for the first time for admission on 08.04.2025, a preliminary objection was raised by the learned Counsel appearing on behalf of the Bihar State University Service Commission (hereinafter referred to as “the Commission”) that result had already been published on 26.07.2024 and the writ petition was filed on 27.11.2024, but the petitioner has not chosen to assail the result by which his candidature was not recommended, rather he had sought for a direction to the authorities to consider his case for appointment. It was also submitted on behalf of the Commission that when the result was not under challenge, the direction to the authorities as prayed for by the petitioner for appointment could not have been considered. It is further argued on behalf of the Commission before the learned Single Judge that the writ petition suffers from non-joinder of necessary party and if the writ petition is allowed, then the last person who was selected, will be adversely affected and, as such, the said candidate was a necessary party and in his absence, the writ application could not be adjudicated. It was further argued on behalf of the Commission that since the petitioner had participated in the





selection process, he could not have challenged the selection process after being declared unsuccessful.

4. After hearing the submission made by the parties, the learned Single Judge accepted the contention raised on behalf of the Commission and came to hold that the writ petition has been filed in a casual manner without assailing the result and without impleading the necessary party as respondent. The learned Judge further came to hold that the submission of the learned counsel for the Commission that, having participated in the selection process, the petitioner could not have challenged the selection process after being unsuccessful was correct.

5. Learned Senior Counsel appearing for the appellant argued that the imposition of the cost for non-joinder of necessary parties to the tune of rupees twenty five thousand was not justified and, even if the petitioner had not impleaded the necessary party as the respondent or assailed the result, he could have filed the interlocutory application for the same and therefore, it was not justified on the part of the learned Single Judge to dismiss the writ petition on the first day itself, holding that it was filed in a callous manner as well as imposing cost of rupees twenty-five thousand. It is further argued by the learned Senior Counsel that if the matter is remanded back to the





learned Single Judge, he will file an interlocutory application to implead the necessary party. It is further submitted that there are sufficient grounds for his success in the writ petition and if the matter is taken up on merit by the learned Single Judge, he can convince the learned Single Judge that the writ petition deserves to be allowed.

6. The learned Senior Counsel for the State and the learned Counsel for the Commission supported the impugned order and submitted that in view of the settled position of law that after participating in the selection process, the petitioner could not have challenged the selection process and that on account of non-joinder of necessary parties, the relief could not have been granted, the impugned order passed by the learned Single Judge suffers from no perversity and therefore, in exercise of the appellate jurisdiction, this Court should not interfere with the same.

7. After hearing the learned Counsel for the respective parties, even though we are satisfied that there was a requirement on the part of the appellant for impleading the necessary parties for the proper adjudication of the case, but since the learned Senior Counsel is intending to file an interlocutory application to add necessary party and the fact





that no adjudication has been done on the merits of the writ petition, we are inclined to accept the submission of the learned Senior Counsel. Accordingly, we set aside the impugned order.

8. The matter is remanded to the learned Single Judge as per roster and in case any interlocutory application is filed by the writ petitioner/appellant seeking leave to challenge the result and impleading the necessary party, the same shall be considered in accordance with law. It is made clear that we have not expressed any opinion on the merits of the case.

9. The Letters Patent Appeal stands allowed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

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