

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).10964/2010

(From the judgement and order dated 10/03/2010 in CWJC No.17734/2009 of
The HIGH COURT OF PATNA)

NAUSHAD ANWAR & ORS. Petitioner(s)

VERSUS

STATE OF BIHAR & ORS. Respondent(s)

(With appln(s) for directions,exemption from filing O.T., directions,
intervention, recalling the court's order, impleadment, permission to file
additional documents and prayer for interim relief and office report)
(For Final Disposal)

WITH SLP(C) NO. 12527 of 2010

(With appln.(s) for Directions and exemption from filing O.T. and office
report) (For Final Disposal)

SLP(C) NO. 17421 of 2010

(With prayer for interim relief and office report)

(For Final Disposal)

SLP(C) NO. 23850 of 2010

(With office report)

(For Final Disposal)

SLP(C) NO. 23852 of 2010

(With office report)

(For Final Disposal)

SLP(C) NO. 20584 of 2010

(With appln.(s) for impleadment and with prayer for prayer for interim
relief and office report)

Date: 01/05/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. P.S. Patwalia,Sr.Adv.

Mr. Suryanaryana Singh,Adv.

Ms. Pragati Neekhra,Adv.

Mr. Gopal Singh

Mr. Akhilesh Kumar Pandey,Adv.

Mr. S. Saran,Adv.

Ms. Swati Chandra,Adv.

Ms. Pragati Neekhra

Mr. Neeraj Shekhar,Adv.

Mr. Ashuthosh Thakur,Adv.

For Respondent(s) Mr. Ranjit Kumar,Sr.Adv.

Mr. Gopal Singh,Adv.

Mr. Manish Kumar,Adv.

Mr. T. Mahipal ,Adv

Mr. A. Sharan,Sr.Adv.

Mr. Amit Anand Tiwari,Adv.

Ms. Madhu Sharan,Adv.

Mr. Mohit Kumar Shah,Adv.
Mr. Rituraj Choudhary,Adv.

Mr. Gopal Singh
Mr. Subhro Sanyal

Mr. Nagendra Rai,Sr.Adv.
Mr. Smarhar Singh,Adv.
Mr. T. Mahipal,Adv.
Mr. Shantanu Sagar,Adv.
Mr. A. Parimal,Adv.
Mr. Smarhar Singh,Adv.
Mr. Abhishek Singh,Adv.
Mr. Gopi Raman,Adv.
Ms. Preeti R.,Adv.
Mr. P.Singh,Adv.

Mr. Braj Kishore Mishra,Adv.
Mr. Ebrahim Kabir,Adv.
Ms. Aparna Jha,Adv.
Mr. Abhishek Yadav,Adv.
Mr. Siddhartha Arya,Adv.

UPON hearing counsel the Court made the following
O R D E R

A very large number of vacancies in the cadre of teachers and librarians in primary schools, secondary schools and higher secondary schools in Municipal Corporation, Municipal Councils, District Boards and Panchayats were advertised in terms of Notification dated 29th August, 2008, issued by the government of Bihar. Apart from nearly one lakh posts of teachers in these schools the notification invited applications against as many as 2,596 vacancies of librarians in such schools. The time schedule as stipulated in the said Notification required the selection process to be completed by 24th December, 2008.

The selection process, it appears was to be undertaken by selection committees at the district level. The composition of such selection committees is not very clear from the record, nor is it clear as to what were the norms and the procedures to be followed by the selection committees for determining the eligibility of the candidates or their inter se merit.

The petitioners in SLP(C) No.10964 of 2010 also appear to have applied for appointment against the posts of librarians pursuant to the above notification. Their claim for such appointments was, however, turned down on the ground that they did not satisfy the essential requirement of possessing a bachelor's degree in library Science from a recognised university.

Aggrieved by the rejection of their claim to eligibility, the petitioners filed a writ petition before the High Court of Judicature at Patna which failed and was dismissed. The process of selection/counselling in the meantime appears to have continued. The petitioners' case before us is that the degree of Bachelor in Library Science was obtained by them from Alagappa University by Distance Education. The said degree was, according to the petitioners, recognised by the Indira Gandhi National Open University (IGNOU) in terms of Notification dated 24th November 2009. Their further case is that since the process of selection and appointment against the available vacancies was not completed by the concerned District Selection Committees within the time-frame stipulated in the said notification, the recognition of the qualification held by them from Alagappa University ought to entitle the petitioners to consideration of their cases also along with other eligible candidates. That contention, urged before the High Court in the the writ petition (CWJC No.17734 of 2009), has been turned down by the High Court in the following words:

"From the aforesaid factual narration, the core question that emerges for consideration whether the students, who have passed from Alagappa University through Distance Education, can be allowed to participate in the counselling. There is no shadow of doubt that the Alagappa University did not have the recognition from the Distance Education Council at the time of examination. It obtained post facto recognition on 24.11.2009, that is, at a very belated stage. The process of appointment, as set forth in the return, had already been completed in January, 2009. Certain Universities were given post facto approval much earlier to Alagappa Universities and, at that time, the process was at the infant stage. In our considered opinion, the same would make a world-wide difference. That apart, on that ground alone, this Court cannot issue a mandamus to the respondents to allow the students, who had passed out from Alagappa University, to appear in the counseling as the counseling is over. It is extremely difficult to put the clock back."

Appearing for the Petitioners, Mr. P.S. Patwalia, learned senior counsel, strenuously argued that the reason, given by the High Court for refusing relief to the petitioners, was unsustainable. He submitted that the process of selection had not been completed in January 2009 as held by the High Court. That process, according to him, was continuing till as late as January 2012. He urged that so long as the process of selection remained in progress, the petitioners' claim for consideration against the vacancies notified by the Government, could not be refuted by the State. He drew our attention in this regard to certain documents on the file to which we need not advert at this stage. Suffice it to say that when we asked Mr. Ranjit Kumar, learned senior counsel appearing for the State, whether the selection process stands completed, as stated by the High Court, he asked for some time to take clear instructions on the subject and to file an affidavit. Mr. Ranjit Kumar was also unable to state as to what was the composition of the selection committees and what were the norms, on the basis of which the inter se merits of the candidates was determined. The process by which the qualification awarded by the universities from outside the State of Bihar were recognised, for the purpose of employment in the State of Bihar also, is not available on record. There is also in one of the connected matters the question : whether the qualification obtained by some of the candidates from other institutions equivalent to a bachelor's degree required for appointment as librarians. The record is deficient even in that respect inasmuch as the process by which such equivalence is established or granted to different qualifications obtained from other institutions, is also not very clear. In the circumstances, therefore, before we proceed any further with the hearing of these matters we deem it just and proper to direct that the State Government shall file an appropriate affidavit answering the following queries:

- (1) What is the total number of appointments made in each District/unit so far, whether by the State or by the concerned authorities, against the posts of librarian.
- (2) How many of such appointments had been made up to 24th December, 2008, the last date fixed for completing the process of selections, in terms of the advertisement notice.
- (3) Under whose Orders was the date for completion of the selection process extended beyond 24th December, 2008 and in exercise of what authority. Copies of the order under which the date for completion of the selection process was extended shall be filed along with affidavit.
- (4) When was the last counselling/verification of documents of the candidates, who applied for appointment in each district, conducted.

- (5) What were the norms and procedure adopted by the concerned Selection Committees for evaluating the inter se merits of the candidates.
- (6) In the case of candidates who had qualified from different universities within and outside Bihar, how was the performance of the candidates adjudged having regard to the fact that the academic standard for each university may have been different.
- (7) What was the composition of the Selection Committee entrusted with the process of selection of the candidates.
- (8) How many candidates were enlisted for appointment in each district on the basis of inter se merits of such candidates. A copy of the merit list for each such district be placed on record.
- (9) Does the Government of Bihar have any norms or guidelines on the subject of recognition of academic qualifications awarded by universities within Bihar and those outside Bihar.
- (10) In case the State of Bihar does not have any mechanism for recognition of such qualifications awarded to candidates from different universities, is there any direction, administrative or otherwise, that relies upon or accepts the recognition granted to such universities by Distance Education Council, New Delhi.
- (11) Apart from Alagappa University from where the petitioners claim to have obtained their degree/qualification in library science, were any other candidates from other universities not recognised on the date of the said Notification considered for appointment by the concerned Selection Committees. If so, on what basis. In case there was any provisional recognition to such universities, the copies of such provisional recognition orders be placed on record.
- (12) Is the process of selection incomplete in any district as on date and if so what are the number of vacancies that remain to be filled in such districts.
- (13) Does the State propose to close or finalise the process of selection against the vacancies that were advertised in the year 2008. If so does it propose to issue a fresh notification inviting application against the vacancies remaining unfilled having regard to the fact that a large number of candidates who were not eligible as on the date of the said Notification may have become eligible for consideration of appointment.
- (14) Is there a library in each school where the post has been filled up or is sought to be filled up. If there is no library in existence has the State taken any steps and if not does the State propose to take steps to provide a library to the school concerned. If the answer be in the affirmative the time-frame within which it proposes to do so may be indicated.

The Secretary to the State Government, Incharge of the Department concerned, shall file an affidavit along with the relevant records not later than 1st July, 2013. An advance copy thereof shall be given to the counsel opposite who shall file their responses within two weeks thereafter.

In case an affidavit, as directed, is not filed within the time granted, the Secretary concerned along with Director, Secondary Education, shall remain present in this Court in person on the next date of hearing.

Post on 24th July, 2013

|(Mahabir Singh)
Court Master

| (Veena Khara)
Court Master

