

Bihar College Service Commission Act, 1976

26 of 1976

[26 February 1977]

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Bihar College Service Commission Act, 1976

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An Act to establish a [College Service Commission]¹ for the appointment of Teachers of the [Affiliated Colleges and Intermediate Colleges]¹ in the State of Bihar. [Explanation.- (1) An affiliated college means any college which is admitted to the privileges of the Bihar State Universities Act and imparts instructions up to degree standard. (2) An intermediate college means a college which imparts instruction up to intermediate standard and the intermediate section of a degree college in which instruction is imparted up to intermediate standard. (3) A constituent college means a degree college which is maintained or controlled by a University and imparts instruction up to degree or post-graduate standard].² Be it enacted by the Legislature of the State of Bihar in the Twenty-seventh Year of the Republic of India as follows :- 1. Substituted by Act 30 of 1982, (24.1.1982). 2. This Explanation is the Part of Act 30 of 1982.

1. Short Title And Commencement :-

[(1) This Act may be called the Bihar College Service Commission Act, 1976]¹.

(2) It shall come into force at once.

1. This Explanation is the Part of Act 30 of 1982.

2. Establishment Of A College Service Commission For The Appointment Of Teachers Of The Affiliated Colleges And Intermediate Colleges And Its Powers And Functions :-

Establishment of a [College Service Commission]¹ for the appointment of teachers of the [Affiliated Colleges and Intermediate Colleges]¹ and its powers and functions

(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint, there shall be established a Commission to be called the Bihar 2[College Service Commission] (hereinafter referred to as the said Commission).

(2) The said Commission shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

[(3) The Commission shall consist of a Chairman and six other members reputed for their scholarship. Out of the six members one shall belong to the Scheduled Caste and Another to the Scheduled Tribe. The Chairman and the members shall be appointed by the State Government and they shall be whole-time officers. They shall hold office during the pleasure of the State Government for a term not exceeding three years and they may be reappointed for one more term which shall not exceed three years during the pleasure of the State Government. The term of appointment of the Chairman or any member shall be deemed to have terminated on completion of 62 years of age. The Chairman or any member may tender resignation through a letter addressed to the State Government:

Provided that in case of absence of one or more members on leave or otherwise, the remaining member or members, as the case may be, shall constitute the Commission.

Explanation.- No person shall be deemed qualified for membership of the Commission unless he has teaching experience of ten years in any University or College and in the opinion of the State Government, he is reputed for his scholarship and academic interest. But the State Government may relax the above qualifications in the case of members of the Scheduled Tribes and the Harijans.]¹

(4) There shall be a Secretary of the Commission who shall also be a whole-time officer to be appointed by the State Government.

(5) Other terms and conditions of service of the Chairman, members and the Secretary shall be determined by the State Government.

(6) The State Government may, by notification in the Official Gazette, make rules not inconsistent with the other provisions of this Act for the smooth working of the Commission.

(7) Subject to the approval of the University, appointments, dismissals, removals, termination of service or reduction in rank of teachers of Affiliated colleges and Intermediate colleges]1 shall be made by the Governing Body of the college on the recommendation of the Commission.

Comments & Case-law

Read with Bihar State Universities Act, 1976, Section 57-Appointment of teachers and Principal in Affiliated College-Role of Commission-Clarified-Any recommendation or communication by Commission which has retrospective effect, that is with effect from period when Commission Act itself was not enacted-Liable to be quashed. Dr. Parmanand Prasad vs. Bihar College Service Commission, 1989(2) BLJ 163 : 1990(1) BLJR 356 :1989 PLJR 768.

(8) In making recommendations for appointment to every post of teacher of any 1 [Affiliated college and Intermediate colleges] the Commission shall have the assistance of such experts and shall be governed by such conditions as have been laid down in Section 57 of the Bihar State Universities Act, 1976 in this behalf.

(9) The Commission shall recommend for appointment to every post of teacher names of two persons arranged in order of preference and considered by the Commission to be the best qualified therefor. The recommendation shall be valid for one year from the date of the recommendation by the Commission.

Comments & Case-law

Recommendation of the College Service Commission is binding on the Governing body and it is not open to it to alter the order of merit unless, some good reason is shown to have been found-The recommendation made by the Commission is statutory in nature under sub-sections 9 and 10 of Section 2 of Bihar College Service Commission Act, 1976 and as such the order of merit cannot be interfered with by the Governing Body. Dr. Sunil Kumar Jha vs. State of Bihar, 2002(4) PLJR 631.

Appointment of Principal-The Governing Body should act strictly in accordance with the recommendation under sub-sections 9 & 10 of Section 2 of the Bihar College Service Commission Act, 1976, whereby, the petitioner was recommended for appointment as a first preference-The Governing Body was directed to take a fresh decision in the light of the recommendation made by the Bihar College Service Commission. Promod Kumar Sinha vs. Magadh

University, 2007(4) PLJR 342.

Panel for the recommendation for appointment to the post of the Principal of the College made by the Bihar College Service Commission-Appellant was placed at No. 2-Respondent was appointed within one year and being at serial No.1 in the Panel-No illegality found-Such recommendation remains valid for one year from the date it has been made. Dr. Vidyanand Sinha vs. State of Bihar, 2007(4) PLJR 420.

(10) In making any such appointment the Governing Body of the College shall, within three months from the date of the receipt of the recommendation under sub-section (9), make its selection out of the names recommended by the Commission, and in no case shall Governing Body appoint a person who is not recommended by the Commission.

Comments & Case-law

Recommendation of the College Service Commission is binding on the Governing body and it is not open to it to alter the order of merit unless, some good reason is shown to have been found-The recommendation made by the Commission is statutory in nature under sub-sections 9 and 10 of Section 2 of Bihar College Service Commission Act, 1976 and as such the order of merit cannot be interfered with by the Governing Body. Dr. Sunil Kumar Jha vs. State of Bihar, 2002(4) PLJR 631.

Appointment-Appellant was recommended at Serial No.2 where as respondent was at Serial No.1-Provision of Section says only with respect to appointment out of recommendation made by Commission-It does not say that person in Item No.1 shall be ignored and below him shall be appointed for one Post-However, authorities ignored 1st name without assigning any reason- Hence writ petition was filed challenging order which was allowed-No illegality- Hence no interference warranted. Manjula Kumari vs. Dr. Sunil Kumar Jha, 2004(3) BLJ 385. [Ed.-This L.RA was filed against the order passed in Dr. Sunil Kumar Jha vs. State as reported in 2002(4) PLJR 631. As the L.RA was dismissed the Order passed in that case has been upheld. Both the cases have been given here for the ready reference on the subject.]

Appointment of Principal-The Governing Body should act strictly in accordance with the recommendation under sub-section 9 & 10 of Section 2 of the Bihar College Service Commission Act, 1976, whereby, the petitioner was recommended for appointment as a first preference-The Governing Body was directed to take a fresh decision in the light of the recommendation made by the Bihar

College Service Commission. Promod Kumar Sinha vs. Magadh University, 2007(4) PLJR 342.

(11) [Omitted by Act 14 of 1996.]

Comments & Case-law

Read with Bihar State Universities Act, 1976, Section 57-A-Appointment of teachers and Principal in Affiliated College-Role of Commission-Clarified-Any recommendation or communication by Commission which has retrospective effect, that is with effect from period when Commission Act itself was not enacted-Liable to be quashed. Dr. Parmanand Prasad vs. Bihar College Service Commission, 1989(2) BLJ 163 : 1990(1) BLJR 356 : 1989 PLJR 768.

Circular issued by State Government-Unless in conformity with Section 2(11)-Has to be ignored-Permanent concurrence with retrospective effect prior to enforcement of the Act-Beyond jurisdiction. Dr. Parmanand Prasad vs. Bihar College Service Commission, 1989(2) BLJ 163 : 1990(1) BLJR 356 : 1989 PLJR 768.

(12) The Commission shall be consulted by the Governing Body of a College in all disciplinary matters affecting a teacher of the college and no memorials or petitions relating to such matters shall be disposed of, nor shall any action be taken against, or any punishment imposed on, a teacher of the college otherwise than in conformity with the findings of the Commission:

Provided that it shall not be necessary to consult the Commission where only an order of censure, or an order withholding increment, including stoppage at an efficiency bar, or an order of suspension pending investigation of charge is passed against a teacher of a college.

Comments & Case-law

Read with Bihar State Universities Act, 1976, Section 57-A-Alongwith Bihar Indigenous Medical Educational Institution (Regulation and Control) Act, 1982, Section 8-Demotion-After enquiry petitioner was reverted back to post from which he had been appointed as Principal-Plea taken that non-compliance of Section 57-A of Universities Act, or sub-section 12 of Section 2 of Commission Act, vitiate Order-Held, Provision of Indigenous Medical Education Act, is applicable in petitioners case hence non-compliance of certain provisions of University or Commission Act not vitiate order. Sri Kant Pandey vs. State of Bihar, 1998(1) BLJ 223 : 1998(2) BLJR 1346 : 1998(1) PLJR 77 : 1998(1) All PLR 47.

(13) It shall be the duty of the Commission to present annually to the University a report as to the work done by the Commission in relation to teachers of the1 [Affiliated colleges & Intermediate

College] and a copy of the report shall be placed before the Senate at its next meeting and the University shall further prepare and submit to the State Government a memorandum explaining, as respect the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance, and the State Government shall cause the same to be laid before the Legislature of the State:

[Provided that the Commission shall send annually to the Chairman of the Intermediate Education Council a report as to the work done in relation to teachers of every intermediate college and the Chairman shall submit it before the next meeting of the Council and the Chairman shall forward to the State Government where a memorandum explaining the reasons for non-acceptance, where the recommendation of the Commission has not been accepted and the State Government shall cause the same to be laid before the Legislature of the State.]³

(14) [Omitted by Act 30 of 1982 (24.1.1982)]

1. Substituted by Act 30 of 1982. (24.1.1982)
2. This Explanation is the Part of Act 30 of 1982.
3. Inserted by Act 30 of 1982.

3. Repeal And Savings :-

(a) The Bihar University Service Commission Second Ordinance, 1976 (Bihar Ordinance No. 170 of 1976), is hereby repealed.

(b) Notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which thing or action was done or taken.