

## Raju Mahato Vs Birsa Agricultural University and Others

**Court:** Jharkhand High Court

**Date of Decision:** March 30, 2005

**Acts Referred:** Bihar Agriculture University Act, 1987 " Section 22, 22(12), 22(13)  
Constitution of India, 1950 " Article 14, 16  
Jharkhand Agricultural Universities Act, 2000 " Section 19(7), 22, 22(10), 36, 44(2)

**Citation:** (2005) 2 JCR 568

**Hon'ble Judges:** S.J. Mukhopadhyaya, J; N.N. Tiwari, J

**Bench:** Division Bench

**Advocate:** Amit Kumar Das, for the Appellant; Ram Balak Mahto A.K. Sahani, Anil Kumar Sinha, AG and Samir Saurav, JC to AG for State, for the Respondent

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

Narendra Nath Tiwari, J.

Complaining public injury caused by the alleged illegal appointments made by the respondent-Birsa Agricultural

University, the petitioner has sought for the following reliefs in this writ application in the name of public interest :--

(i) For issuance of an appropriate writ/order/direction restraining the respondent-University from making any further illegal appointments in absence

of statute;

(ii) Writ, order or direction to set up any competent authority/independent body for inquiry in respect of illegal appointments made by the

respondent-university on the post of assistant without even conducting any written test or typing test, which is mandatory;

(iii) For quashing the advertisement published by respondent-university in various news papers on 2.4.2004 whereby and whereunder various

posts of University Professor-cum-Chief Scientist and Chief Scientist-cum-University Professor of various disciplines has been published by

respondent-University.

2. The petitioner has Introduced himself as an ex-member of the Board of Management of the University and a public spirited person. According

to the petitioner, the respondent-University was earlier known as Rejendra Agricultural University and was created under the Rajendra Agricultural

University Act, 1971. Under the said Act, a statute was framed which governed the service condition and procedure for appointments and other

functions of the University. Subsequently, Bihar Agricultural University Act, came into force in the year 1988 which repealed the other Acts such

as Rajendra Agricultural University Act, 1971; Birsa Agricultural University Act, 1981 etc. After the enactment of Bihar Agricultural University

Act, 1988, previous statutes of the University have been revoked and there is no statute to govern the affairs of the University. Even in absence

thereof, the respondent-University has been making appointments. The respondent-University is bound to follow the reservation policy of the State

in the process of appointment and for that purpose to specify the reservation roster in the advertisement for appointments on the vacant posts. But,

the respondent-University, contrary to that, advertised various posts for the purpose of appointments in its advertisement dated 2.4.2004, only

mentioning that the reservation roster will be followed as per the order of State Government by Resolution No. 7 ARRO(T)/ 33/2002/6191/RAN,

dated 9.11.2002, but without specifying as to whether single post of the University Professor-cum-Chief Scientist of various departments and

Chief Scientist-cum-University Professor of various departments would be reserved under the reservation roster and if so, for what category. The

respondents have also relaxed the eligibility criteria on their own prescribing minimum educational qualification, a doctorate degree, in the subject

concerned/allied discipline whereas in the earlier statute, the minimum required qualification for the concerned post was a doctorate degree in the

concerned subject only and no person having doctorate degree in the allied subject was eligible for the post. Petitioner alleged that the respondent,

on the one hand have not framed any statute for the proper functioning of the University including for appointments and for laying down the service

condition and on the other hand, have, of their own, fixed the educational qualification for the appointment of University Professor-cum-Chief

Scientist and Chief Scientist-cum-University. Professor of various departments. Details of the reservation roster on the advertised post have not

been published. The impugned advertisement is vague and illegal. In absence of the statute, various manipulations have been done by the

respondent-University for the purpose of making appointment on the post of Director of Research. The director (Research) should be the

Chairman of the Selection Committee, but instead, the Dean (Agriculture) was made the Chairman of the Committee. The Board of Management

of the respondent-University has not approved the names of various experts of the Selection Committee who have been included by the Vice

Chancellor. The respondent-University has made a number of illegal appointments. 53+13 Assistants have been appointed without holding any

written test or typing test, which were mandatory, under the old statute. The petitioner supplemented his grievances by way of supplementary

affidavit stating, inter alia, that the respondent-University is governed by the guidelines of the Indian Council of Agricultural Research (hereinafter

referred to as ICAR) and the Chief Secretaries of all the States, by letter dated 3.3.1999, have been directed to ensure that the State Agricultural

University is abiding by the conditions laid down by the ICAR. All the State Agricultural Universities have to abide by the conditions regarding the

minimum qualification for teachers of University and Colleges and to take measures for maintaining standards: as contained in letter dated

24.12.1998 issued by the University Grants Commission (UGC). According to the said letter, the Vice Chancellor is to be the Chairman of the

Selection Committee for the appointments on the post of University Lecturer which is equivalent to the post of Assistant Professor. Similarly, for

the post of Reader, appointment is to be made on the basis of merit through all India advertisement and selection by the duly constituted selection

committee to be set up under the Statute/Ordinances of the concerned University. Such Committee should consist of a minimum of three experts,

the Head of the concerned Department and the Principal of the concerned College. For the purpose of appointment to the post of Assistant

Professor, the respondent-University constituted the Selection Committee of which the Acting Dean of the concerned faculty was made the

Chairman in violation of the guidelines of the ICAR and the letter of the UGC dated 24.12.1998. All the appointments, thus, made are liable to be

held illegal and the said appointments cannot be given effect to. Showing his concern, the petitioner has stated that the ICAR is the funding agency

of the respondent-University and if the guidelines of the ICAR are not followed, all the financial assistance and grant-in-aid to the University may

be withdrawn affecting the interests of University, which is one of the most prestigious institutions in the State.

It was further stated that the Commissioner-cum-Secretary of the Department of Agriculture and Sugarcane Development, by a letter dated

12.12.2002, informed the Accountant General that the State Government has decided to implement the guidelines prescribed by ICAR on the

condition that the concerned Agricultural University shall make relevant changes in their statute and regulations. According to the petitioner, for the

post of Assistant Professor, as per the guidelines of the UGC the candidates have to qualify the NET for lecturers conducted by UGC/CSIR or

similar post of agriculture. The respondents have relaxed the pre-condition of five years experience in teaching and research for the post of

Assistant Professor and have also accepted the candidates having qualification of allied subjects contrary to the UGC guidelines. For the post of

University Professor, the candidate should be an eminent scholar with published work of high quality actively engaged in research with 10 years of

experience in post graduate teaching and/or experience in research at the University National Level Institutions including experience of guiding

research at doctoral level or an outstanding scholar with established reputation and in exceptional cases should have teaching experience of 15

years of UG standard research experience, but the same has not been followed and appointments are being made giving relaxation in the

prescribed qualification. It has been stated that the Jharkhand Agricultural University Act, provides for temporary appointment u/s 22(10) of the

said Act, and the Vice Chancellor may appoint, under intimation of management, any suitable person, temporarily for a period not exceeding six

months against a vacancy as an officer of a University referred to in Clause (3) to (7) of Section 19. Exercising that power, the Vice Chancellor

had appointed Shri K.P. Singh as Registrar more than two years back, but he is being allowed to continue even beyond the prescribed period.

Similarly, Shri R.M. Srivastava, Additional Director, was made Director (Extension) who is also being allowed to continue. N.C. Das who was

appointed as Director (Administration) after his retirement from the service of the State Government, is also continuing beyond the limit of six

months. There is no permanent Dean and Director in the University and Acting Deans and Directors are being allowed to continue and to act as

Chairman of the Selection Committee for the purpose of making appointments. University has conducted interviews for various posts in the rank of

Assistant Professor and equivalent and Associate professor and equivalent in different facilities without any statute which are illegal. For the post of

Computer Assistant only two posts were shown vacant in the advertisement, but as many as 32 appointments have been made. Out of them, most

of the appointees are either the close relatives of the higher officials and authorities of the respondent-University or the close relatives of the

interview committee which was also published in the daily newspaper "Hindustan" in its edition dated 28th July, 2004. One Himanshu Pandey who

is the son of the Incharge Director of the University, has been appointed to the post of Senior Scientist even in absence of requisite qualification.

Dr. Anita Pandey has been appointed on the post of Junior Scientist who happens to be the wife of Joint Secretary, Dr. D.K. Saxena. One

Himangi Shiv Kumar has been appointed on the post of Computer Assistant, who happens to be the sister-in-law of Anita Chaurasia, a member of

the Interview Committee. All the said appointments are illegal and the same are liable to be suitably dealt with.

3. The respondents, in reply to the said writ application have filed a voluminous counter affidavit. At the outset, the respondents have challenged

the very locus standi of the petitioner and that of the maintainability of the writ application as a public interest litigation. The respondents contended

that the writ petition suffers from the vices of *suggestio falsi* and *suppressio veri* and has been maliciously filed with an oblique motive to wreck the

personal vengeance as the petitioner, who happens to be a political leader and exerted pressure to accommodate his men in the appointments in

deviation of the prescribed norm, remained unsuccessful otherwise the petitioner has got no concern as he was not the candidate and he is not in

any way an aggrieved person. The respondents further stated that the Bihar Agricultural University Act, 1988 though repealed the Rejendra

Agricultural University Act, 1971; Birsa Agricultural University Act, 1976; and Bihar Agricultural University Second Ordinance, 1987, proviso to

Section 22(12)(i) of the said Act authorizes the Vice Chancellor to adopt *mutatis mutandis* the statute existing, before commencement of this Act,

in a University. The then Vice Chancellor of the Birsa Agricultural University, by notification dated 29th April, 1986, in exercise of the said power

u/s 22(12)(i) of the Bihar Agricultural University Ordinance (14 of 1986) adopted the statute existing before the commencement of the Ordinance

*mutatis mutandis*. After the coming into force of the Bihar Agricultural University Act, 1988, the Vice Chancellor, in exercise of the power under

the proviso to Sub-section 12(i) of Section 22 of Bihar Agricultural University Act (8 of 1988) adopted *mutatis mutandis* the statute existing before

the commencement of the Act. Copy of the notification has been annexed and marked as Annexure "B" to the counter affidavit. According to the

respondents, the said statute is still in force. The said Bihar Agricultural University Act. Section 22, *inter alia*, deals with the powers and duties of

Vice Chancellor. Sub-section (12) of Section 22 of the said Act, *inter alia*, provides thus :--

The Vice Chancellor, for a period of six months from the date of the enforcement of this Act may have the following extra powers : (i) subject to

the approval of the Chancellor, to make the first statutes under this Act to provide functioning of an University; provided, the Vice Chancellor may

adopt *mutatis mutandis* the statute existing before the commencement of this act in an University.

Sub-section (13) of Section 22 of the said Act further provides that any order passed by the Vice Chancellor in exercise of the powers conferred

on him by Clauses (ii) to (v) of Sub-section (12) shall continue to have effect after the expiry of the period specified under Sub-section (12) until it

is modified or set aside by the authority or body competent to deal with it in accordance with the provisions of this Act.

The Bihar Act 8 of 1988 was adopted by the State of Jharkhand, by notification dated 19.12.2000, and the same is called as the Jharkhand State

University Act, 2000. Section 22 of the Jharkhand Agricultural University Act, 2000 is verbatim to that of Section 22 of the Bihar State

Agricultural University Act, 1988. The statute created under the said Act of 1988 was adopted and followed in Bihar Agricultural Universities and

the same have not been withdrawn or repealed by any competent authority till date and the same are applicable mutatis mutandis. Adopted statute

under the provisions of Bihar State Agricultural University Act are operative by virtue of the provisions of Section 44(2) of the Jharkhand

Agricultural University Act, 2000. It has been categorically denied that the University has been making any appointment in absence of any statute.

Allegations of nepotism and favouritism have also been denied. It has been stated that the news item cited by the petitioner is a deliberate creation

of the news at the instance of interested persons and the same is not worthy of any credence. It has been stated that the Board of Management, in

exercise of powers u/s 36 of the Jharkhand Agricultural University Act, 2000 has made a new statute and has forwarded the same to the

Chancellor of the University which has not been assented to till date and as such the old statutes are still in force and the University has been

discharging its duties under the provisions of the said statute. The University has followed the reservation policy of the State both in the

appointments as well as for the purpose of admission of students, in its true letter and spirit, without any deviation. It has been stated that the

candidates, who applied for the post, faced the interview and remained unsuccessful, have not challenged the selection or the selection process, as

the same were in accordance with the statute. Chapter XVII of the Statute, inter alia, prescribes qualification and eligibility of different posts

including University Professor-cum-Chief Scientist. According to which, the requirement is doctorate in the subject concerned (relaxable to high

second class M.Sc degree or its equivalent post-graduate qualifications in case of candidate with exceptionally distinguished records of productive

research). For the post of Assistant Professor-cum-Junior Scientist, the prescribed qualification is high master's degree or its equivalent post-

graduate qualification in the subject concerned and atleast two years' experience of teaching/research and all the said norms prescribed in the

statute including the reservation policy have been strictly followed. Neither roster policy as alleged by the petitioner, has been violated nor there

was any iota of manipulation in making appointment to the post of Director (Research) or on any other post. According to the said provisions for

the post of Assistant Professor-cum-Junior Scientist, the selection committee has to be constituted by the Vice Chancellor from amongst Deans of

the faculty/Director of Resident Instruction/Direction (Research), as chairman. The Chairman is to be nominated by the Vice Chancellor depending

upon the nature of the post to be filled up and it is not mandatory that the Director (Research) has to be the Chairman of each and every selection

committee. The respondents further denied the allegation that the Board of Management has not approved the names of various experts. The

respondents have annexed the photocopy of the decision of the Board of Management, as Annexure "C" to the counter affidavit which shows the

approval. Regarding the appointment of the Assistants, it has been stated that the respondents held written tests and on successful completion in

the written test, a panel was prepared by the selection committee duly constituted under the provisions of the Statute. According to the

respondents, all the norms and standard are maintained in the respondent-University and the degrees awarded by the constituent units, i.e.,

agriculture, veterinary and forestry colleges have been accredited by the ICAR, VCI and others and the qualification prescribed for different posts

in the statute which were being followed by the respondent-University are not in conflict with or contrary to any notification of the UGC. It has

been stated that neither the State of Jharkhand nor the State of Bihar adopted the requirement of eligibility of NET (National Eligibility Test) for

appointment on the teaching posts in any University of Jharkhand including the Agricultural University, yet in the advertisement issued by the

respondents, it has been indicated that a person, who has passed the NET shall be preferred. That as per the provisions contained in the statute of

the University, for the posts above Assistant Professor, i.e., Associate Professor, University Professor, Vice Chancellor has to be the Chairman of

the selection committee whereas in case of Assistant Professor any of the Dean has to be nominated as the Chairman of the selection committee by

the Vice Chancellor. For all the direct recruitment of the lecturers, readers and professors, the respondents advertised the posts on all India basis.

All other statutory provisions were also followed. Provision for outside experts in case of Assistant Professor and Associate Professor, as

prescribed are also being followed by the respondents. There is a provision in the statute that in case the outside expert does not turn up and if only

expert attends the selection committee, the interview could be concluded and the recommendation made by the said selection committee will be

valid. That for the rank of Assistant Professor-cum-Junior Scientist, any Dean or director has to be nominated as Chairman of the selection

committee. The provision in the statute does not distinguish the Dean or Acting Dean. Dean means any person holding the post of Dean, whether

regular or officiating. To complete the process of appointment, Deans/Directors were nominated as Chairman of Selection Committee and as such

the constitution of selection committee is in accordance with law.

It has been stated that majority of posts which were advertised and for which recruitment procedures were undertaken belong to ICAR projects,

but no objection so far has been received from the ICAR. The apprehension of the petitioner regarding withdrawal of the financial assistance and

grant-in-aid by the ICAR is wholly baseless. It has been stated that the subject-concerned qualification has been prescribed in the statute for the

post which requires specialization in single subject. But, in the University, there are departments and posts of teachers which are of multi discipline

in nature and therefore, allied subjects have been recognized and incorporated in the statute for such requirements. There are certain exceptions

and particularly in the faculty of forestry, where the allied subjects have been included after the approval of the Chancellor and teacher, after the

appointment, are being sent to I.C.F.R.E., Dehradun for three years training in forestry for the expertise knowledge of the forestry. It has been

stated that all the appointments are being made in accordance with the guidelines of the UGC. For that, advertisements were made for the posts of

scientists/teachers from 1998 to 2004 and the efforts have been made by the University to finalise the appointments in the interest of academic

attainment of the University. 70% of the posts of scientists/teachers had become vacant and the University was facing constraint in awarding

Undergraduate, Postgraduate and Ph.D degrees and in that view the appointment of Scientists/ teachers become necessary. The respondents have

annexed several decisions taken in different meetings as Annexure "E" series. It has been stated that ICAR is the Apex body which provides

support for advertisement and strengthening of agriculture and allied science education. The ICAR circulated guidelines and provided proforma.

According to the said proforma, University prepares report which is a ""Self Study Report"". In the report, number of posts of teachers vacant and

filled up has to be shown. If the vacancy of teachers are not filled up in accordance with the norms of the ICAR, they may stop the grant. It has

been stated that the Vice Chancellor has made appointment of Shri K.P. Singh, Registrar under the power conferred by Section 22 (10) of the Act

and further extension of appointment has been made on approval of the Board of Management, which is the highest executive body of the

University. The appointment is not a direct appointment and Dr. K.P. Singh has been given additional charge as Registrar in addition to his duties



as University Professor (Soil Science-cum-Agriculture Chemistry). The said additional charge has been given to him in the larger interest of the

University. The University has also advertised for appointment of Registrar on permanent basis. The copy of advertisement has been annexed as

Annexure "G" to the counter affidavit. Dr. R.M. Srivastava was superannuated from the post of Additional Director (Extension Education) on

attaining the age of 60 years. He was engaged for a period of one year on the same post due to the acute shortage of the experienced hands for

the post which required in the interest of the University. His engagement was approved by the Board of Management. Professor N.C. Das

(retired) was the head of the Department of Agricultural Statistics and Computer Application. He was the Incharge of the Computer Centre of the

University before his retirement. In order to cater to the most urgent need of regularizing the G.P.F. and C.P.F. accounts of the Officers and staff

of the University and to comply with the directions of the Court made in different cases filed by the pensioners, the University had to engage

Professor N.C. Das on contract basis only for a period of six months on payment of consolidated amount, which was extended for another six

months and now that period has already expired. The said engagement of Professor N.C. Das was also approved by the Board of Management.

Photocopies showing the engagement letters of Dr. R.M. Srivastava and Professor N.C. Das along with others and letters of Board of

Management have been annexed as Annexure "H" and "H/1" to the counter affidavit. The respondents have further denied the allegation that most

of the Assistant appointed are close relatives of the interview committee. It has been stated that the post was advertised and the eligible candidates

were called for written test and after selection in written test a panel was prepared by the Selection Committee duly constituted by respondent No.

2 in accordance with the statute and after approval of the panel, appointment letters were issued strictly in accordance with the merits of

candidates without any discrimination between the outsider or the wards of the University staff. No relaxation or extra marks have been given to

the wards of the employees. The respondents have emphatically denied that Shri Himanshu Pandey is the son of the Director-in-charge of the

University who has been appointed on the post of Senior Scientist. It has been stated that as a matter of fact one Himanshu Dubey has been

appointed on the post of Junior Scientist who possessed the required qualification and became successful amongst other eligible candidate, who

also holds Ph.D degree. The respondents have annexed the photocopy of the bio-data as Annexure "J" series in order to demonstrate that Shri

Dubey possessed much higher qualification than what was required in the advertisement for the post. It has been further denied that Dr. Nita

Pandey has been appointed in the University, rather one Dr. Anita Saxena has been appointed on the post of Junior Scientist after following the

due procedure who has been declared successful by the selection committee and she has been appointed on the recommendation of the said

committee. It has been stated that since the respondent No. 2 has a surname "Pandey" only in order to malign him and mislead this Court, the

names have been distorted by adding surname "Pandey" in the name of such candidate which apparently reflects the mala fide and ulterior motive

of the petitioner. It has been denied that Anita Chaurasia was a member of the interview committee. Rather, she happened to be a candidate for

the post of Computer Assistant, who succeeded amongst other eligible candidates and was selected by the selection committee. It has been

asserted that Himangi Shiv Kumar was never a member of the selection committee as alleged by the petitioner. All the allegations are, thus, wholly

false and misleading and the petitioner is guilty of making false statement on oath. The respondents summed up that the allegations made on the writ

petition and supplementary affidavit by the petitioner are absolutely false, wild and vague and the same are not worthy of any credence and the writ

petition is liable to be dismissed.

4. The petitioner filed a rejoinder to the said counter affidavit, almost repeating and reiterating the statements made in the writ petition and

additionally denying the averments made in the counter affidavit. Though the rejoinder to the counter affidavit has consumed more pages than the

original writ petition, yet there is nothing new and worth quoting, and no detail discussion of the same is required.

5. Mr. Amit Kumar Das, learned counsel appearing on behalf of the petitioner, faced with the counter affidavit, mostly based on documentary

evidences, confined his attack on the alleged irregularities committed by the respondents in making large scale appointments on the post of Training

Associate much more than the number of the posts shown in the advertisement. Learned counsel submitted that the respondents have not denied

the said fact and thereby have accepted that the number of persons appointed is much in excess than what were advertised, which itself proves the

large scale irregularity in the appointments. Learned counsel submitted that there cannot be appointments on the vacancies which arose subsequent

to the advertisement, without further notifying/advertising them for recruitment as any such appointment violates the constitutional mandate

enshrined in Articles 14 and 16 of the Constitution of India. Learned counsel placed reliance on a decision of the Supreme Court in Ashok Kumar

and Others Vs. Chairman, Banking Service Recruitment Board and Others, Learned counsel submitted that in the advertisement No. 1/2003, only

seven posts of Training Associates were advertised, whereas 72 appointments have been made without further notifying the posts. On other posts

also appointments have been made in excess of the number of posts advertised for appointments. Learned counsel submitted that most of the

appointments suffer the vices of favouritism and nepotism as the close relatives of the members of selection committee or the officer/staff of the

University have been favoured in the said appointments. According to the learned counsel, said appointments are also bad for not following the

statutes and not complying with the established norms for such appointments, particularly, in prescribing the educational qualification for the posts

of University Professor-cum-Scientist and Chief Scientist-cum- University Professor and for the post of faculty of forestry and agriculture. The said

appointments are further vitiated on account of lack of power and violation of the reservation roster prescribed in the reservation policy of the

State. Learned counsel submitted that the rule of reservation must be indicated faculty-wise and discipline-wise in the advertisement, but there was

no such faculty-wise or discipline-wise indications in the advertisement, for the posts. He relied on a decision of the Apex Court in State of Uttar

Pradesh Vs. Dr. Dina Nath Shukla and another, According to the learned counsel, the said issues are of utmost public importance and the

petitioner has raised the said issues and approached this Court by way of the Instant Public Interest Litigation for safeguarding the interest of the

public at large.

6. Mr. Ram Balak Mahto, learned senior counsel appearing on behalf of the respondents vehemently opposed and contradicted the claims of the

petitioner. Learned counsel submitted that this writ application is not a public interest litigation rather the same has been filed with oblique motive

for wrecking personal vengeance against the University authorities who could not oblige the petitioner by accommodating his men in the said

appointments. Learned counsel submitted that the statements made in the writ application are all incorrect and far from the truth. Vague and wild

allegations have been made to malign the University authorities and to put them to unnecessary harassment. The petitioner has abused the process

of constitutional remedy for serving his self interest in the garb of a PIL. The petitioner has also misused his position of an ex-employee of the

respondent-University and managed to obtain copies of several official documents which have also been annexed with the writ petition, the

supplementary affidavit or the rejoinder filed by the petitioner. Learned counsel urged that there is absolutely no basis for the allegation that the

appointments have been illegally made contrary to the terms of advertisement made. Drawing attention of this Court, learned counsel referred to

the terms and conditions mentioned in the advertisement. The very first term of the advertisement No. 1/2003 reads as follows :--

Number of vacancies as indicated above may be increased or decreased as per need

Learned counsel submitted that by the time the posts were to be filled up, the number of vacancies increased and the appointments were made

accordingly, strictly following all the established norms and the advertised terms and conditions and in accordance with the merit list prepared by

the selection committee. In the advertisements, it was brought to the knowledge of all concerned that the number of vacancies would be subject to

variation in accordance with the need and as such there is absolutely no illegality in filling up the vacancies in variation of the number of posts

advertised. Learned counsel cited a decision of the Supreme Court in *Suvidya Yadav vs. State of Haryana*, (2002) 10 SCC 269 In the said case,

Haryana Public Service Commission had issued an advertisement indicating the number of posts of principals to be filled up as "18". It was

mentioned in the said advertisement that the number of posts would be subject to variation to any extent. The State Government required more

number of principals. The Public Service Commission, taking advantage of the said clause, recommended the names of 30 persons for the post of

principals. The High Court held that selection of persons beyond 18 was bad. Setting aside the said order of the High Court, the Supreme Court

held that there was no bar on the power of the Public Service Commission in recommending 30 names and all the persons so recommended were

entitled to be appointed. Learned counsel further relied on another decision of the Apex Court in *Sandeep v. State of Haryana*, 2001 (1) ALD

(Cri.) 620 (SC), wherein it has been held that though the number of posts tentatively had been indicated in the advertisement, yet there was

stipulation that the vacancy position may change. The Court held that the vacancy available up to the date of interview should be filled up from

amongst the candidates selected in the competitive test. According to the learned counsel, the respondents have acted in accordance with law in

filling up the vacancies in accordance with the said stipulation given in the advertisement itself. All the posts are sanctioned and not a single

appointment has been made of a person who is not eligible in any respect. Learned counsel further submitted that if any relative of the University

staff or officer is among the successful candidates, who competed in the written test and who possessed the required qualification and other

eligibility criteria, has been selected in the said selection process, there is nothing illegal or unusual as they are also the citizens of India and they

have equal rights to compete with the others and to be selected and appointed. Advancing his arguments, learned counsel submitted that the

petitioner has failed to point out any categorical irregularity or illegality in the appointments made by the respondents and only vague and unspecific

allegations have been made in the petition, out of malice and grudge.

7. Having considered the submission made by the learned counsel, and on through consideration of the submissions made by the parties and on

examination of the documents and materials produced before us, we find merit in the contentions of the respondents. The petitioner has complained

of large scale irregularities in the matter of appointments in the respondent-University. The main ground for making such allegation is the admitted

variation in the number of vacancies advertised and the number of appointments made by the University for one or the other post(s). On perusal of

the advertisement (Annexure-N), we find that there was a clear stipulation in the advertisement that the number of vacancies indicated in the

advertisement may be increased or decreased as per the need of the University. In view of the said stipulation as well as the decision of the

Supreme Court in *Suvidya Yadav and Sandeep Singh*, (supra) we find absolutely no substance in the much hyped allegations of the writ petitioner.

The alleged claim that the appointments have been made contrary to the legal provisions and/or in absence of the statutory provisions also could

not be substantiated by any material on record. The respondents have explained every appointment showing the same as per the norms and the

provisions of law. This Court is not here concerned with one or the other individual appointment(s) giving rise to any cause of action for an

adversary litigation to a person/persons complaining/raising any grievance in his personal capacity, but the easy the petitioner has sought to assail

the appointment of almost all and sundry without even impleading them as party to this writ application, cannot be approved and entertained by this

Court. We do not find any pro bona publico element in this writ application. In *Dr. M.C. Gupta and Others Vs. Dr. Arun Kumar Gupta and*

*Others*, the Apex Court held that when selection is made by a commission aided and advised by experts having technical experience and high

academic qualifications in the specialized field, having teaching/research experience in technical subjects, the Courts should be slow in interfering

with the opinion expressed by the experts and it would normally be prudent and safe for the Courts to leave the decision of academic matters to

experts who are more familiar with the problems they face than the Courts generally can be. Further in *Dr. Duryodhan Sahu and Others Etc. Etc.*

*Vs. Jitendra Kumar Mishra and Others Etc. Etc.*, the Supreme Court held that in service matters, Public Interest Litigations should not be

entertained and that the so-called Public Interest Litigations involving service matters should be thrown out. The Court further held that if the official

documents are annexed with such Public Interest Litigations, without even indicating as to how the petitioner came to possess the same, the Court

should not only dismiss the petitions, but should also impose exemplary costs so that the message goes in the right direction that the petitions filed

with oblique motive do not have the approval of this Court. The respondents, in this case, have produced the documents showing all the selections

on the recommendations of the body of experts and on proper consideration of all the materials in the accordance with provisions of law, the

relevant rules and regulations. We find no valid ground to interfere with such recommendations and appointments made by respondents. The nature

of controversy raised by the petitioner is that of a private issue litigation and not of a public interest litigation and in our opinion, the petitioner has

unnecessarily encroached upon the Court's valuable public time, and has missed the easy access to justice forum of PIL, falsely posing himself as a

public spirited holy man and has abused the process of this Court by filing a frivolous writ petition without any element of public interest. We,

accordingly, dismiss this writ petition with costs, leniently quantified at Rs. 5,000/- to be deposited by the petitioner in favour of the Jharkhand

State Legal Services Authority within a period of one month.