

**(2005) 03 JH CK 0004**

**Jharkhand High Court**

**Case No:** Writ Petition (PIL) No. 3085 of 2004

Raju Mahato

APPELLANT

Vs

Birsa Agricultural University and  
Others

RESPONDENT

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**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. Mukhopadhaya, 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

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### **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 Rajendra 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 Subsequently, Bihar Agricultural University Act, came into force in the year 1988 which repealed the other Acts such as Rajendra Agricultural University Act, 1971; Birsa Agricultural University Act, 1981 etc.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 factually 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 (Extention) 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 (CrL.) 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.