
(2015) 09 JH CK 0054
In the Jharkhand High Court
Case No : W.P. (S) No. 3802 of 2015

Ajit Kumar Giri and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-09-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) 4 JLJR 153

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Pandey Neeraj Rai, for the Appellant; Suresh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. Petitioners admittedly are serving Teachers in the Government Elementary Schools within the State of Jharkhand. They are seeking consideration for direct recruitment under advertisement dated 4.7.2015 and other such advertisements issued by the respondent authorities of the State for the purpose of direct recruitment to the post of Assistant Teacher in such Primary/Middle (Elementary Schools) within the State of Jharkhand. The Jharkhand Elementary School Teachers Recruitment Rules, 2012 under which the process of direct recruitment is being undertaken are at Annexure-6 to the writ petition. The provisions of the said Rule stipulate certain eligibility criteria including passing of the Teachers Eligibility Test (T.E.T.). Petitioners claimed that having secured appointment through the process of Public Service Commission, should be treated as having a qualification equivalent to the T.E.T. for the purpose of being the applicant to the direct recruitment exercise conducted under the instant Rules. They have also claimed that 2012 Rules lead to arbitrary consequences as persons like the petitioners who may be interested in participating in the direct recruitment exercise are becoming ineligible, though serving Teachers like the Para Teachers have been granted

50% reservation in the said recruitment exercise.

2. Petitioner, who are serving Teachers are entitled to promotion in higher Grades in terms of the Bihar Taken Over Elementary School Teachers Promotion Rules, 1993. Petitioners however, accept that at present they may not be fulfilling the necessary eligibility criteria to be promoted to Grade-IV i.e. Graduate Trained Scale given their length of service. However petitioners have sought a direction to allow their participation in the direct recruitment exercise treating them eligible, as they are within the age limit and have qualification equivalent with T.E.T. and are also Graduate for the said purpose. They have also asked for holding fresh T.E.T. for qualifying the same. They allege that if such eligibility is not provided under the 2012 Rules, petitioners are discriminated in violation of the Fundamental Right under Article 14 of the Constitution of India.

3. Having given sufficient thought to the plea raised by the petitioners, this Court is of the considered view that prayer made on their behalf is not tenable in law and facts. As a matter of fact the petitioners do not acquire the eligibility to participate in the direct recruitment test which is undertaken in terms of the 2012 Rules which has defined the eligibility criteria including passing of T.E.T. and other educational qualification. The service conditions of the petitioners who are serving Teachers are defined under the Rules of 1993 which provides for promotional avenues to such higher grades in the hierarchy of their cadre. Petitioner do not challenge the legality of the Rules in question which provides for direct recruitment to the post of Assistant Teachers in such Elementary Schools keeping in line with the mandate of Right of Children to Free and Compulsory Education Rules, 2009 and the N.C.T.E. Guidelines thereunder.

4. Therefore, no relief can be granted on the plea of the petitioners in the present writ application. However, rejection of the prayer of the petitioner would not come as a bar to the petitioners in laying down any challenge to the vires of the Rules of 2012, if so advised and permissible in law. The writ petition is dismissed accordingly.