
(2011) 09 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8421 of 2011

Akanksha Panwar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 23-09-2011

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 1 RLW 672

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : H.S. Sandhu, Deepak Nehra, A.K. Rajvanshi, M.P. Pareek, Bharat Devasi, Manoj Purohit, Hanuman Singh and Nishant Bora, for the Appellant; G.R. Poonia, A.A.G. and P.R. Singh for University, for the Respondent

Judgement

Gopal Krishan Vyas, J.—In all the above writ petitions, the petitioners have prayed for direction to the respondents to give them admission in the colleges of respondents No. 4 and 5. In all the above writ petitions common question with regard to the claim of the petitioners for admission in B.Ed. course against vacant seats is involved. Hence, for the sake of convenience while taking into consideration facts of S.B. Civil Writ Petition No. 8421/2011, all these writ petitions are decided by this common judgment/order. The main contention of the petitioner is that the competitive examination for admission in the B.Ed. course i.e. PTET 2010 was conducted by the Jai Narain Vyas University, Jodhpur, in which, the petitioner was one of the candidates who appeared with Roll No. 126346 and she was declared successful on securing 277 marks out of maximum 400 marks which is evident from the marks-sheet Annex. 1. After passing the said test, the petitioner was called for counseling by the Convener, PTET 2010, Jai Narain Vyas University, Jodhpur and, for the purpose of allotment of college, after depositing registration fee the petitioner was given option in respect of 19 colleges, however, no admission was given to the petitioner despite the fact that large number of seats are lying vacant and persons having lesser marks than the petitioner in PTET 2010 were allotted colleges according to their choice.

2. The petitioner's claim is that refusal of admission to the petitioner after first counseling is totally unjust and arbitrary because in various colleges vacant seats are available but allotment of candidates have not been made because decision has been taken not to conduct second counseling for filling in the vacant seats, therefore, a prayer is made by the petitioners to accord admission in the college of their choice against vacant seats, in the order of preference, option submitted by the petitioners.

3. As per the petitioner, action of the respondents in riot providing admission against the vacant seat even though she cleared the PTET 2010 and found in merit is in violation of Article 14 as well as right of the petitioner to education guaranteed under the Constitution of India. Main contention of the petitioner is that only one counseling is conducted by the respondents for filling up the seats for admission in B.Ed. course and, even if large number of seats are still vacant and large number of meritorious candidates including the petitioner are available for admission but the respondents refused to conduct second counseling in respect of vacant seats available for admission in the B.Ed. course in various colleges in Rajasthan.

4. In this writ petition, reply has been filed by respondent No. 3 Coordinator, PTET 2010, Jai Narain Vyas University, Jodhpur, in which, it is submitted that in view of the directions issued by the State Government respondent No. 3 cannot conduct second counseling or fill in the vacant seats. So many other grounds have also been taken in the reply filed by the respondents with the prayer that the writ petition filed by the petitioner may be dismissed.

5. This writ petition was listed in the Court along with so many other writ petitions on 21.9.2011. On that date, after hearing learned counsel for the petitioners, Mr. G.R. Punia, Addl. Advocate General was directed to take instructions from the Government whether Government is inclined to permit the Coordinator, Pre-Teachers Education Test, 2011 to fill up all those unfilled vacancies which remained unfilled due to non-joining or non-reporting of the candidates. Today, the Addl.-Advocate General filed the following reply:

1. That it is humbly submitted that for the purpose of admission in the various Teacher Training Colleges for the academic year 2011-12 the State Government had taken a decision that no cut-off marks shall be prescribed for the purpose of counseling and the Coordinator for PTET 2011-12 was directed to continue the counseling till such time as candidates were allotted for all the available seats in the various Teacher Training Colleges in the State. Accordingly, the Coordinator had conducted the counseling and allotted candidates to all the 777 Teacher Training Colleges in the State against the available 90290 seats which have been sanctioned by the National Counsel for Teacher Education in these 777 institutions.

Out of the candidates who were allotted to the various Teacher Training Colleges by the Coordinator, some candidates have not joined for one reason or the other.

The State Government has taken a decision that fresh counseling shall not be undertaken for those seats in the various Teacher Training Colleges for which counseling has already been done and candidates had been allotted but have remained unfilled on account of the fact that the candidates who were allotted the seats have not joined.

2. That the reason to take the above decision are as follows:-

(a) That the session for the year 2011-12 has already commenced. Undertaking a fresh round of counseling would have meant delaying the session for all the candidates.

(b) That if a second round of counseling had been undertaken for filling up the seats which had remained unfilled in the various institutions on account of the allotted candidates not having joined, the candidates who are much below in merit than the last candidates who were allotted seats in the concerned Teacher Training Colleges would have been given an opportunity for those colleges whereas a large number of other candidates who were much higher in merit have been denied the opportunity because all the seats in the concerned colleges had been allotted during the first round of counseling. This would have caused a very awkward situation for the State Government and possibility of those candidates who were much higher in the merit of the combine competitive examination that the candidates who would have appeared in the second round of counseling approaching the Hon'ble High Court could not be ruled out. The State Government is quite clearly of the view that conducting a second round of counseling in these circumstances would have led to a lot of unnecessary litigation which would have adversely affected the conduct of the Teacher Training Courses in the various institutions in the State.

3. That in view of the above reasons, the petitioners would not be permitted to seek any admission at that stage after cut off date/completion of counseling to avoid disturbance to academic calendar.

6. Upon perusal of the above reply, it will reveal that as per decision of the Govt. the session for 2011-12 has already commenced and undertaking a fresh round of counseling will delay the session for all the other candidates. Further, it is contended in the reply that if second round of counseling is undertaken for filling up the seats which remained unfilled in various institutions on account of the allotted candidates not having joined, the candidates who are much below in merit than the last candidates who were allotted seats in the concerned Teacher Training Colleges would have been given an opportunity for those colleges whereas a large number of other candidates who were much higher in merit have been denied the opportunity because all the seats in the concerned colleges had been allotted during the first round of counseling. It is submitted that this situation would cause awkward position for the State Government and possibility of those candidates who were much higher in the merit of the combine competitive examination that the candidates who would have appeared in the

second round of counseling approaching the Hon''ble High Court could not be ruled out.

7. In my opinion, the welfare State is duty bound to perform its bounden duty to protect the fundamental right of the citizens. Here, in this case, after due preparation of the studies large number of candidates appeared in the competitive examination for admission in B.Ed. course known as PTET with expectation that opportunity will be granted for admission on the basis of their standing merit. It was also expected that first of all admissions will be given as per their choice given before the counsel; but, even though large number of seats remained vacant due to non-joining of candidates or non-reporting of the candidates to the institutions and this fact is within the knowledge of the welfare State; despite that, without any cogent reason in a very casual manner decision has been taken by the State Govt. not to go in for second counseling.

8. In my opinion, the action of denial by the State Government restricting the Co-ordinator, PTET 2010, Jai Narain Vyas University, Jodhpur on the ground that the session has already been commenced is also not correct because as per Annex. R/3 admissions have been granted up to 9th of September, therefore, denial of admission is totally in violation of Article 14 of the Constitution of India and the constitutional provisions, so also, against the spirit of the Constitution of India. In this view of the matter, all the above writ petitions are hereby allowed with the following directions:

1. The respondent State shall issue directions to the Co-ordinator, PTET 2010, Jai Narain Vyas University, Jodhpur forthwith for conducting second counseling within two weeks.
2. After receiving direction from the Government, the Co-ordinator, PTET 2010, Jai Narain Vyas University, Jodhpur shall fix date of second counseling without delay and grant opportunity to all the successful candidates who are in merit and not able to get admission in the first counseling for any reason.
3. At the time of conducting second counseling the case of those candidates who have already been admitted in various colleges after allotment shall not be disturbed and opportunity of second counseling may be granted to the remaining candidates as per their merit.

It is made clear that first of all the choice given by the remaining candidates shall be considered for their admission in the respective colleges where they desire admission against vacant seats and if no seat is available as per option given by the candidates, then, they may be offered admission at other colleges as per availability of the seats.