

(2018) 11 RAJ CK 0003
In the Rajasthan High Court
Case No : Civil Writ No. 17001 of 2018

Akash Chanwariya @APPELLANT@Hash State Of Rajasthan

Date of Decision : 01-11-2018

Acts Referred:

Citation : (2018) 11 RAJ CK 0003

Hon'ble Judges : Dinesh Mehata, J

Bench : Single Bench

Advocate : Suresh Khadar, Parvez, Rajesh Panwar

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner questioning the conduct of selection process on the post of Safai Karamchari pursuant to list of

selected candidates in general category (Annexures-4). It is, inter alia, submitted by learned counsel for the petitioner that the respondents have drawn

a lottery in terms of Rule 9 of the Rules in an illegal manner, wherein, they first drew lottery for the reserved category candidates and then for the

general category candidates by including those who could not get selected against reserved category.

Another challenge laid is that while drawing lottery for the general category candidates, the respondents should not have included the reserved

category candidates. Submissions have been made that the respondents have violated the law laid down by Honâ??ble Supreme Court as well as the

judgment in the case of Swaroop Kumar Acharya & Ors. v. State & Ors. : S.B. Civil Writ Petition No. 7371/2014, decided on 09.05.2017. The

petitioner, though belong to Scheduled Caste, chose to file his application for the post of Safai Karamchari in the general category and on failure to get

selected, has questioned the procedure adopted by the respondents.

Learned counsel appearing for the respondent-State on caveat made submissions that the issue sought to be raised already stands decided by

judgment of this Court in *Ravi Jajot & Anr. v. State of Rajasthan & Ors.* : S.B. Civil Writ Petition No. 10496/2018, decided on 30.08.2018. Further

submissions have been made that the judgment in the case of *Swaroop Kumar Acharya* (supra) has also been taken into consideration while issuing

the directions in the case to deal with the recruitment of *Safai Karamcharis* in the said judgment and the plea now sought to be raised by the petitioner

already stands answered in the said case and, therefore, there is no reason to take a view different from what has already been taken by this Court in

the case of *Ravi Jajot* (supra) and, therefore, the writ petition deserve to be dismissed.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record. The petitioner, as

noticed hereinbefore, belong to Scheduled Caste, chose to file application as general category candidates and now seeking to question the fact that the

reserved category candidates have been granted two opportunities, one while drawing the lottery pertaining to reserved category candidates and then

including them in the general category candidates.

Submissions have also been made regarding the sequence. It is submitted that first lottery of general category candidates including the reserved

category candidates should have been drawn and, thereafter, the lottery of the left out reserved category candidates should have been drawn by the

respondents and, as the procedure has not been adopted, the entire selection deserves to be quashed. The issue sought to be raised cannot be

appreciated in so far as the case of the petitioner, who has applied in general category is concerned, inasmuch as, the petitioner got a better chance

for getting selected once the selection was made earlier in the category of reserved category candidates and, therefore, merely because in the

estimation of the petitioner the sequence of drawing lottery was other way round cannot be a reason to question the validity of the selection unless the

petitioner is affected by it.

So far as the submissions pertaining to the inclusion of the reserved category candidates in the general category is concerned, the issue is well settled.

This Court in the case of *Kaushal Tripathi v. The State of Rajasthan & Ors.* : S.B.

Civil Writ Petition No. 13946/2018, decided on 14.09.2018

referring to the judgment of Honâ??ble Supreme Court in Bihari Lal Rada v. Anil Jain (Tinu) & Ors. : Â (2009) 4 SCC 1 laid down that for

unreserved post, eligible candidates belonging to all the categories including Scheduled Caste, Scheduled Tribes and Other Backward Class are

entitled to be considered and, therefore, even if lottery has to be drawn for the post of general candidates, the respondents were justified in including

all the eligible candidates belonging to reserved category as well.

So far as the submissions made by learned counsel for the petitioner seeking to question the validity of judgment in the case of Ravi Jajot (supra) being

contrary to the judgment in the case of Swaroop Kumar Acharya (supra) is concerned, the co-ordinate Bench of this Court in the case of Ravi Jajot

(supra) has dealt with all the issues from para 70 to 75 and, therefore, even if the judgment has not specifically been indicated/dealt with, the same

already stands considered and, therefore, it cannot be said that the Court has not taken into consideration the ratio in the case of Swaroop Kumar

Acharya (supra). In view of the above discussion, there is no substance in the writ petition and the same is, therefore, dismissed.