

(2004) 06 JH CK 0043

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1070 of 2004

Awanish Kumar Sinha and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 383

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : R.P. Gupta, for the Appellant; Saurav Arun, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. R.P. Gupta, learned counsel appearing for the petitioners and Mr. Saurav Arun, learned counsel appearing for the respondents.

2. In this writ petition, the petitioners seek a writ of mandamus commanding upon the respondents to issue appointment letters for the respective posts for which all the petitioners have been declared successful as per the result published by the respondents.

3. It appears that an advertisement was published by the respondents under the signature of Deputy Commissioner-cum-President of District Tuberculosis Control Society, Chaibasa, Singhbhum West in the newspaper on 26.10.2003 for appointment on the post of Data Entry Operator, Laboratory Technician, Senior Treatment Supervisor. It is contended by the petitioners that they appeared for their interview on different dates and the final result was declared on 17.11.2003, and petitioners were selected against different posts.

4. Petitioners' case is that before publication of result a meeting was held under the Chairmanship of Deputy Commissioner (Development) Singhbhum West in which five members were present and all the procedures were followed for selecting the candidates including the petitioners. The petitioners were surprised

to know that on 25.2.2004, the Deputy Commissioner has published fresh advertisement for the same post for which the petitioners have been selected.

5. The stand taken by the respondents in the counter-affidavit is that before the interview and selection of candidates in 2003 a decision was taken by the Society in its meeting held on 2.1.2003, formulating the guidelines for the selection of eligible candidates by strictly following the reservation policy of the State of Jharkhand. It is stated that the committee constituted for the purpose of interview could not continue and the interview was, therefore, conducted by the Officers not authorized to conduct the interview. Moreover, the committee which selected the candidates has totally ignored the reservation policy.

6. It is a settled proposition of law that candidates included in the panel indicating their provisional selection does not acquire indefeasible right for appointment even against the existing vacancies. A person whose name is said to find place in selection list has no vested right to get appointment to the post inspite of vacancies exist. The State while filling up the vacancies has to act bonafide and after following the guidelines and the procedures for appointment including reservation policy. In the instant case, it appears that the selection committee duly constituted has not acted as per the guidelines and even the reservation policy has not been followed.

7. In that view of the matter, I am of the opinion that issuance of fresh advertisement for the same post cannot be held illegal or malafide. However, since there was no fault on the part of the petitioners they shall be entitled to apply afresh for the said posts and their cases shall also be considered along with others by relaxing their age, if any.

8. With the aforesaid observation, this writ petition is dismissed.