
(2009) 01 RAJ CK 0035
In the Rajasthan High Court

Bhawani Singh Kheechee

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-01-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 2 WLN 184

Hon'ble Judges : H.R. Panwar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

H.R. Panwar, J.—By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to consider his candidature for appointment on the post of Shiksha Sahayogi as per Annex. P/6 in pursuance of the posts advertised vide Annex. P-5 and seeks to quash Annex. 7 by which respondent No. 4 Raju Chauhan was selected as Shiksha Sahayogi in Gram Panchayat Nandrakalan, Panchayati Samiti Mandor.

2. A reply to the writ petition has been filed by the respondents taking the stand that the petitioner has been denied consideration on the post of Shiksha Sahyogi on account of reservation of post of Shiksha Sahayogi to the person of the class to which the Sarpanch of the said village belongs. According to the State, the post of Shiksha Sahayogi in Gram Panchayat Nandrakalan is reserved to the category to which the post of Sarpanch has been reserved and since in Gram Panchayat Nandrakalan, the post of Sarpanch has been reserved for Scheduled Tribe and therefore, the petitioner being not a member of Scheduled Tribe has rightly been denied consideration for the post of Shiksha Sahayogi.

3. I have heard learned Counsel for the parties.

4. It is contended by learned Counsel for the petitioner that the reservation made vide Annex.4 for appointment on the post of Para-Teachers/ Shiksha Sahayogi to the extent it reserves the post of Para-Teachers/ Shiksha Sahayogi

to the category to which the post of Sarpanch of that Gram Panchayat is reserved has been held to be unconstitutional and quashed by this Court in *Mukesh Kumar v. State of Rajasthan* 2005 (1) SCT 541 (raj). According to learned Counsel for the petitioner, this controversy came to be considered by a Division Bench of this Court in *Duleshwara v. Union of India*, D.B. Civil Writ Petition No. 1879/2002 decided on 28.01.2003 wherein the order of linking appointments of para-teachers to the class to which elected post of Sarpanch was reserved was challenged and the Division Bench of this Court held that there was no justification to establish any rational nexus with object sought to be achieved by linking appointments to community of the elected Sarpanch and denial of appointment on such ground was held to be nothing but wholly illegal, unreasonable, arbitrary and violative of Articles 14 and 16 of the Constitution of India.

5. According to learned Counsel for the petitioner so far as the merit of the petitioner is concerned, the merit came to be examined by the Gram Panchayat vide Annex. P-6 and Ghewar Ram S/o Pabu Ram Jat and petitioner Bhawani Singh S/o Ranjeet Singh came to be selected. Though in the merit list, Ghewar Ram was at serial No. 1 and petitioner was at serial No. 2, however, since Ghewar Ram S/o Pabu Ram has been selected as Shiksha Sahayogi for Panchayat Samiti Luni and therefore, after Ghewar Ram having been selected in different Gram Panchayat, the petitioner only person stood on merit and he was unanimously selected which is evident from Annex. P-6. The appointment of respondent No. 4 came to be stayed by this Court by order dt. 11.06.2002. According to learned Counsel for the petitioner, the respondent No. 4 has been selected in different Gram Panchayat and joined as Shiksha Sahayogi therein and therefore, he has hardly interest to contest the writ petition. Be that as it may, as per Annex. P-6, the petitioner has been selected unanimously after Ghewar Ram having been selected and joined at Panchayat Samiti Luni and keeping in view the decisions of this Court referred herein above whereby the reservation for the post of Para-Teachers/ Shiksha Sahayogi to the class to which elected post of Sarpanch was reserved has already been held to be unconstitutional, in my view, the petitioner deserves consideration for the said post of Shiksha Sahayogi.

6. Consequently, the writ petition is allowed. The order Annex. P-7 qua Gram Panchayat Nandrakalan selecting the respondent No. 4 on the post of Shiksha Sahayogi is quashed. The respondents are directed to reconsider the candidature of the candidates who appeared before the Selection Committee of the Gram Panchayat on the post of Shiksha Sahayogi and if the petitioner is found to be meritorious, he may be considered for appointment on the said post. Stay petition also stands disposed of. No order as to costs.