

(2018) 04 JH CK 0021
In the Jharkhand High Court
Case No : W.P.(S).No. 994 of 2016

BIJAY KUMAR PRAJAPATI AND OTHER	Vs	APPELLANT
STATE OF JHARKHAND AND OTHER		RESPONDENT

Date of Decision : 09-04-2018

Acts Referred:

Jharkhand Primary School Teachers Appointment Rules, 2012 — Rule 11, 14

Citation : (2018) 04 JH CK 0021

Hon'ble Judges : DR. S.N. Pathak, J

Bench : Single Bench

Advocate : Debarsi Mondal, Ajit Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The petitioners have approached this Court with a prayer for a direction upon the respondents to appoint them on the post of Inter Trained

Teachers in Non-Para Category. Further prayer has been made to appoint them on the post of Assistant Teacher for Class-I to V in the category of

Non-Para, as they fulfill all the criteria laid down under the Jharkhand Primary School Teachers Appointment Rules, 2012.Â

3. The facts of the case lies in a narrow compass.Â In light of letter No. 1180 dated 29.05.2015, issued by the respondent No. 2, almost all the

District Superintendent of Education of State of Jharkhand issued advertisement for appointment to the post of Inter Trained Teachers. The petitioners

working as Para Teachers and fulfilling the requisite criteria given in the advertisement, have applied in non-para category in the districts of Dhanbad,

Deoghar, Giridih & Bokaro. The petitioners initially could not qualify for

counseling since they could not achieve the qualifying marks, however, in the later counseling when the seats in non-para category remain vacant, the petitioners name were uploaded for counseling. The petitioners have applied in both the category i.e. para and nonpara categories. It is the further case of the petitioners that as per Rule 14 of the 2012 Rules, it was specifically mentioned that 50% post of the Inter Trained Teachers for Classes 1 to 5 shall be reserved for Para Teachers, who have two years of regular service as Para-Teachers. It was also mentioned in Rule-14 that the reservation to Para Teachers shall be horizontal reservation i.e. Para Teachers would be entitled for consideration in the reserved category, as per their respective categories i.e. SC/ST/OBC/UR. Thereafter, the Secretary of the School Education & Literacy Department issued guideline on 12.11.2013 contained in letter No. 2487, governing the field of appointment, in which also, there is no stipulation that Para-Teachers would not be entitled for consideration of appointment as Inter Trained Teachers in the category of Non-Para.Â

Â Thereafter, the issue fell for consideration before the respondents as to whether the Para Teachers, who have applied for Non-Para Category, can be appointed as Teachers for Non-Para category or not. The District Superintendent of Education, Dhanbad therefore sent a letter being letter No. 1759 dated 18.07.2014 requesting the State Govt. to clarify as to whether Para-Teachers can be appointed as Teachers in Non-Para Category or not.

This was clarified by the Govt. of Jharkhand vide its letter dated 16.01.2015, replying therein that whosoever having the requisite qualification under Rule 11 of the said Rule, 2012, are entitled for such appointment and the District Establishment Education Committee was the competent authority to appoint such persons. Thereafter, several Para-Teachers were appointed as Teachers in Non-Para category in the district of Dhanbad. In other districts also, Para-Teachers were appointed in the category of Non-Para on the basis of such clarification given by the Govt. It is the specific case of the petitioners that though they have been selected for appointment to the post of Assistant Teachers for Classes 1 to 5, non-para category, they are not being issued appointment letters on the ground that they are para-teachers inspite of the fact that in the advertisement as also in 2012 Rules, no such stipulation was there. Hence, the petitioner has no option but to knock the door of this Honâ??ble Court for redressal of his grievances.Â

4. Learned counsel appearing for the petitioner strenuously urges that as the petitioners fulfill all the requisite qualification for appointment to the post of Assistant Teachers for Class 1 to 5 under the category of Non-Para therefore, their cases should be considered for appointment and they should be allowed to participate in the counseling scheduled on different dates and in different districts. Though the petitioners were working as Para Teachers but they have applied under the Non Para category and on technicalities, their appointments should not be turned down as several posts of Teachers are still lying vacant and there are 50% reservation in the appointment of Para Teachers.Â

5. Per contra, counter-affidavit has been filed by the respondents. Mr. Ajit Kumar, learned counsel appearing for the respondents draws the attention of the Court towards para-7 and 9 of the counter-affidavit and submits that no advantage can be derived by anybody through void documents under law. Learned counsel submits that it is obvious that the alleged applications submitted by the petitioners against proportional share earmarked for non-para teachers category, are void documents and hence, they cannot gain any advantage and therefore, their cases were rightly rejected. They cannot be either called for counseling or can be offer appointment since the documents itself were void. It was further argued by the learned counsel appearing for the State that presently counseling in Bokaro district came to an end and appointment letters are already issued to the successful candidates and many have joined and as such, the question of participation in counseling process does not arise at all.Â

6. Be that as it may, having gone through the rival submissions of the learned counsel for the parties and after perusal of the records, this Court is of the considered view that no case is made out for interference in the instant writ petition. In the advertisement, there was clear-cut stipulation regarding ParaTeachers and Non-Para Teachers category. Admittedly, the petitioners are working on the para-teachers post and they ought to have applied in the category of Para-Teachers but in the instant case though they are working as Para-Teachers but they have applied in the category of Non-Para Teachers. Hence, the cases of the petitioners have rightly not been considered and they have not been given any opportunity to appear in the counseling. There is no merit in the instant writ petition.

7. Resultantly, the writ petition stands dismissed.