
(2015) 07 JH CK 0066
In the Jharkhand High Court
Case No : WP(S) No. 3735 of 2007

Birendra Prasad Yadav

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-07-2015

Acts Referred:

Citation : (2015) 4 AJR 46 : (2015) 3 JLJR 322 : (2015) LabIC 4004

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : S.N. Pathak, for the Appellant; Rakhi Rani, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rongon Mukhopadhyay, J—In this writ petition, the petitioner has prayed for quashing the Memo No. 1108 dated 22.5.2007, issued under the signature of respondent No. 4, whereby and whereunder, candidature of the petitioner pursuant to Advertisement No. 1/2004 for appointment on the post of constable has been cancelled. It has further been prayed that a direction be issued upon the respondents upon quashing of Memo No. 1108 dated 22.5.2007 to appoint the petitioner on the post of constable. In terms of the Advertisement No. 1/2004 which was issued for appointment on the post of constable in different districts of the State of Jharkhand, the petitioner being one of the eligible candidates submitted his form to which a receipt was granted showing roll number of the petitioner as 7940. The petitioner on having successfully competed the physical test had appeared in the written test and on publication of the results, the name of the petitioner was found among the successful candidates. Since the petitioner was not appointed even on being declared successful in the tests, he represented the authorities and ultimately Memo No. 1108 dated 22.5.2007 issued by the respondent No. 4 was served upon him from which the petitioner could gather that his candidature has been cancelled on the ground that his name has been written over another name after pasting the

paper, as has been found by the selection board.

2. Heard Dr. S.N. Pathak, learned senior counsel for the petitioner and Mrs. Rakhi Rani, learned junior counsel to Sr. S.C.-II, appearing for the respondents.

3. It has been submitted by Dr. S.N. Pathak, learned senior counsel for the petitioner that since the malpractices were detected in the matter of selection to the post of police constable, orders were passed by the Division Bench of this Court in which the respondents were directed to make appointment according to select/merit list of successful candidates declared successful excluding 932 candidates identified by the enquiry officer found to be involved in malpractices during the selection. Dr. Pathak submits that the petitioner was not included in the 932 candidates, identified by the enquiry officer to be beneficiaries of malpractices and in such circumstance, the petitioner cannot be debarred from being appointed to the post of police constable. Learned senior counsel for the petitioner while referring to the counter affidavit has further submitted that a list of 112 candidates was separately prepared and the results were kept pending for various deficiencies and therefore it has been submitted that although the successful candidates and the candidates who were the beneficiaries of malpractices were segregated, the list of 112 candidates, which has been mentioned in the counter affidavit was never brought to be notice of the Hon"ble Division Bench and therefore since the name of the petitioner as per the counter affidavit filed by the respondent is not within the list of 932 candidates, his candidature has to be considered by the respondent authorities in its proper perspective.

4. Mrs. Rakhi Rani, learned junior counsel to Sr. S.C.-II, on the other hand, has submitted that although initially a counter affidavit had been filed by the State in which it was mentioned that the petitioner's name did not figure in the list of 932 candidates who were beneficiaries of malpractices, but subsequently in the supplementary counter affidavit filed by the respondents it has been stated that the entire file was inspected and supervised and the roll number of the petitioner could be found in the list of 932 candidates who were the beneficiaries of malpractices and in such circumstance, candidature of the petitioner was rightly rejected.

5. In the impugned order, the name of the petitioner for appointment to the post of police constable had been rejected on the ground that on enquiry it was found that the name of the petitioner was pasted over another name by pasting paper and on account of such deficiency the appointment of the petitioner was not considered. Although in the counter affidavit, initially filed by the respondents, a separate category of 112 candidates has been carved out which category was never put before the Division Bench, but as would appear from the supplementary counter affidavit filed by the respondents, the roll number of the petitioner being 7940 finds place in the list of 932 candidates who were beneficiaries of malpractices. It has been indicated in the impugned order, that the name of the petitioner was found pasted over the name of another person

which led to his disqualification in the selection process and inclusion of his name in the list of 932 candidates who were the beneficiaries of malpractices. In such circumstances, when the enquiry officer had admittedly found the petitioner involved in malpractices for securing appointment as a police constable and when the Hon"ble Division Bench had specifically directed to exclude the 932 candidates identified by the enquiry officer for the purposes of appointment, the petitioner being one of the 932 candidates has rightly not been considered for appointment. Since the petitioner has rightly not been considered for appointment in such circumstance, no interference is warranted in the impugned order dated 22.5.2007 as contained in Memo No. 1108 issued by the respondent No. 4 and accordingly, there being no merit in this writ application, the same is hereby dismissed.