

(2012) 09 RAJ CK 0094

In the Rajasthan High Court

Case No : Civil Writ Petition No. 9170 and 9169 of 2012

Datar Singh

APPELLANT

Vs

State of Rajasthan and Another
 Anita Devi Khatik Vs
State of Rajasthan and Others

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 09 RAJ CK 0094

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Nitin Trivedi, Mr. Man Prakash Choudhary, Dr. P.S. Bhati, Mr. Kailash Khatri, Mr. Vikas Bijarnia, Mr. Vinod Choudhary, Mr. C.S. Bissa, Mr. B.L. Chouhan, Mr. Kuldeep Mathur, Mr. Ashvini Swami and Mr. Arjun Purohit, for the Appellant; G.R. Punia and Additional Advocate General assisted by Mr. Mahendra Choudhary, for the Respondent

Final Decision : Allowed

Judgement

Govind Mathur, J.—On 24.2.2012 all the Zila Parishads in the State of Rajasthan invited online applications from the eligible candidates to be considered for appointment to the post of Teacher Grade-III in accordance with the provisions of the Rajasthan Panchayati Raj Act, 1994 and the Rajasthan Panchayati Raj Rules, 1996. As a part of selection process a competitive examination viz. "Teacher Grade-III Direct Recruitment Competitive Examination - 2012" was to be conducted. To participate in the examination aforesaid the aspirants were supposed to provide all necessary informations in the prescribed online application form. It was made clear in the notification dated 24.2.2012 that the online application forms should be submitted through prescribed "E-Mitra Kiosk" or "Jansuvidha Kendra". The facility to fill-up the application forms by the candidates at their own was also prescribed by logging in "www.exam.rajpanchayat.gov.in", however, the examination fee was required to be deposited at "E-Mitra Kiosk" or "Jansuvidha Kendra". No hand written

application form was to be accepted. The last date for submitting online application forms was 2.4.2012. While submitting the online applications the petitioners either committed some errors or some columns remained unfilled due to several reasons including the weakness of the server. In some of the cases the persons belonging to tribal sub plan area though referred that they are belonging to Scheduled Tribes but failed to fill-up the column pertaining to the fact that they are resident of tribal sub plan area. In certain other cases the candidates mentioned that they belonged to Other Backward Classes but failed to mention that they are also required to be considered against the vacancies reserved for Special Backward Category. In some of the cases the column of being outstanding sportsmen remained unfilled. Similarly, in few of the cases the aspirants desired to face the examination as General Teacher but in the application form entry made for appointment as Special Teacher. In totality, the aspirants committed errors in mentioning the category in which their candidature was to be considered. No possibility of the correction of errors was available as the application forms were submitted online.

2. The grievance of the petitioners is that most of the errors were committed by the computer operators at "E-Mitra Kiosk" or "Jansuvidha Kendra". It is also submitted that immediately after knowing about the error committed the petitioner approached to the respondents but of no consequence as the entries were recorded online. According to the petitioners at the time of submitting application form the server was very slow and, therefore, the computer operators at "E-Mitra Kiosk" or "Jansuvidha Kendra" were heavily overburdened and, therefore, the errors occurred. In any case due to minor wrong entries made in the application forms the candidature of the petitioners have not been considered with availability of correct facts mainly pertaining to their categorisation. It is submitted by counsel for the petitioners that the mode of accepting applications online was introduced first time by the respondents and, therefore, some device regarding corrections of the errors should have been there.

3. From examination of record of each and every case I found that the errors crypted are quite minor but having far reaching effects including non-consideration of the petitioners for appointment on the post concerned. The error so committed excludes them from consideration against the vacancies relating to their own category. It is also noticed that the petitioners after filing the application forms made representations to the respondents, but no correction was made as the application forms were accepted online.

4. this Court in *Savita Budania v. State of Rajasthan & Ors.*, SBCivil Writ Petition No. 9062/2012, decided on 4.9.2012, while dealing with the similar controversy held as under:-

From perusal of the documents Annex.-5 and Annex.-6, it is apparent that the petitioner with quite diligence rectified the error committed by her. While availing examination also she mentioned her special category as an "Extra-ordinary Sportsman" in OMR sheets. The respondents, therefore, should have condoned

the error and should have considered her candidature in the category of "Backward class (woman)" with the special category of "Outstanding Sportsman". The respondents while making recruitment may avail assistance of technology but at the same time a human approach is also required to be kept in mind. The object of holding competitive test is to have best available hand and in this process merit should not be compromised just for the reason that the mechanical procedure adopted does not support the manual exercise. In the cases, if the human error is rectified with all diligence at earliest possible, a condonation of error is desirable. The total ignorance of such rectification results into hardship and arbitrariness only. The non-consideration of the petitioner under her special category despite necessary correction at the earliest is highly unjust and arbitrary, as such is in violation of Article 14 of the Constitution of India.

(Emphasis given)

5. The cases in hand are also having the facts similar to the facts adjudicated in the case of Savita Budania (*supra*). The respondents introduced the online process for submission of application forms first time and that was through "E-Mitra Kiosk" and "Jansuvidha Kendra". The allegation of the petitioners regarding weakness of server is not absolutely ill-founded. It is also required to be kept in mind that most of the aspirants are belonging to rural areas and are coming from the lower or lower middle echelons of the society. Most of the aspirants are not having expertise with computer technology and as such at this initial stage of introduction of technology minor errors on their part are obvious and the same deserves condonation to ensure a fair selection process. The facts of the cases demand for having some space for correction in the wrong entries occurred while submitting online applications, but unfortunately that was not made available by the respondents. Having considered the facts of the cases and objective conditions existing, I deem it appropriate to accept these petitions for writ. Accordingly, the same are allowed. The respondents are directed to make necessary corrections in the application forms submitted online by the petitioners and the persons alike on or before 30th September, 2012, if such persons point out the errors by submitting representations on or before 24th September, 2012. The candidature of such candidates is also required to be considered afresh after making necessary corrections in the application forms and if they stand in merit in their category, appointment be accorded to them, if otherwise found eligible.