
(2005) 09 MP CK 0073
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3015 of 2004

Dheerendra Singh

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 16-09-2005

Acts Referred:

Citation : (2006) 3 MPHT 48

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : D.N. Shukla, for the Appellant; Alok Pathak, for the Respondent No. 1 and Hemant Shrivastava, for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Misra, J.—Professional Examination Board, Bhopal, the respondent No. 2 herein, published an advertisement for selection for Pre-Medical Test, 2004 for State Health Services in the newspaper daily, namely Dainik Bhaskar as per Annexure P-3. In pursuance of the aforesaid advertisement, the petitioner submitted his application with requisite fees and was eligible to participate in the examination. He was issued admit card. As set forth, he appeared in the written examination and his results were declared indicating that he has secured 176.15 marks out of total marks of 200. The counselling took place on 28-7-2004 for the unreserved seats. As per the programme of counselling, the petitioner went to Bhopal with essential documents, which included certificate of domicile in the State (District Satna). The said certificate was issued by the Tehsildar, Nagod, District Satna as per Annexure P-5. The certificate clearly showed that the petitioner's birth place was District Satna and had his education in Uttar Pradesh. It also states that the family had movable and immovable property in District Satna (M.P.). The petitioner placed documents pertaining to domicile certificate of Satna as the family had agricultural land in the area. The voters list as well as ration card reflected that he is a domicile of Satna District in Madhya Pradesh.

2. According to the writ petitioner, though the domicile certificate was issued by the Competent Authority but at the time of counselling, it was not accepted and he was not permitted to participate in the counselling by the respondent No. 2. A representation was submitted by the petitioner putting forth his grievance. It is urged that part of his education was in the State of M.P. Though he had produced the domicile certificate granted by the Competent Authority which was fortified by production of other documents, he was not permitted to appear in the counselling. It is also canvassed that when he agitated his grievance, he was threatened to be arrested. With this factual back-drop, a prayer has been made for issue of a direction to the respondents to permit the petitioner to appear in the counselling.

3. A return has been filed by the respondent No. 1, though it has been mentioned as return on behalf of the respondents. It is set forth therein that as per rules, it is a mandatory requirement of having qualification of bonafide resident of Madhya Pradesh. Reference has been made to Clause 6.0 of the M.P. Medical and Dental Under-Graduate Entrance Examination Rules, 2004 (for short "the Rules"), which lays down the eligibility condition. Under the Rules, a proforma certificate has been provided as per Annexure R-2. It is urged that it is one of the mandatory requirements of bonafide resident that the candidate must have either studied continuously for three years in a school situated in the State of M.P. or should have passed 10th, 12th or 8th Class examination from Madhya Pradesh. The petitioner failed to produce proforma of bonafide certificate of residence as contemplated in proforma 10 as per Annexure R-2. As one of the essential qualifications/requirements was not fulfilled by the petitioner, he was not permitted to participate in the counselling. In addition, it has been highlighted that during the counselling, the petitioner had given in writing that he had prosecuted his education in the State of U.P. and therefore, the essential requirement of eligibility condition was lacking and hence he cannot have any grievance.

4. A return has been filed by the respondent No. 2 contending inter alia that as per Clause 9 of the Rules, counselling of the candidates who had passed the Pre Medical Entrance Test from the Professional Examination Board is to be convened by the Counselling Committee in which the Director, Professional Examination Board or his representative is one of the Members. The scrutiny of the documents is made by his staff and the Director, Professional Examination Board had no role in the scrutiny and therefore, the Director, Medical Education, M.P. who maintains the record of the counselling is alone reply to the points raised by the petitioner. It is put forth on the basis of proforma 6 given in the Rules, the petitioner was under obligation to submit a certificate in the form contained therein duly signed by the authorised officer. In the instant case, the petitioner had filed certificate Annexure P-5 which shows that he had received education up to Class 12th in Uttar Pradesh and perhaps for this reason, the scrutiny officer did not allow him to participate in the counselling.

5. A rejoinder has been filed by the petitioner to the returns filed on behalf of the respondent Nos. 1 and 2. To meet the allegations of the counter affidavit filed by the respondent No. 1, it has been stated that the certificate produced by the petitioner was valid as the same had been issued by the prescribed authority of the Government. Emphasis has been laid on the fact that Clause 6.0 of the Rules does not state that a person would be disqualified if he did not have education in the State of M.P. In the rejoinder, in reply to the return filed by the respondent No. 2, it is put forth that the stand taken by the said respondent No. 1 is an act of shifting responsibility inasmuch as the decision was taken by the respondent No. 2, not to allow the petitioner to participate in the counselling.

6. I have heard Mr. D.N. Shukla, learned Counsel for the petitioner, Mr. Alok Pathak, learned Government Advocate for respondent State and Mr. Hemant Shrivastava, learned Counsel for respondent No. 2 Professional Examination Board. The main thrust of the matter is whether the petitioner had been illegally deprived of appearing in the counselling. Annexure P-5 is the domicile certificate which has been issued by the Tehsildar, Nagod. Grant of certificate has not been disputed. It is also not disputed that the Tehsildar is the Competent Authority to issue the domicile certificate. The genuineness of the certificate is beyond assail. What is put forth by the respondent No. 1 is that it is not in accordance with the Rules and the Proforma. The rules have been brought on record as Annexure R-1. Rule 6.0 reads as under:

6.0. Eligibility.--

(A) The candidate must be a citizen of India.

(B) The candidate must be bonafide resident of Madhya Pradesh.

OR

(C) Who is son/daughter of--

(1) An employee or retired employee of Government of Madhya Pradesh.

OR

(2) An employee died while in regular service of Government of Madhya Pradesh.

OR

(3) An Officer of All India Services belonging to Madhya Pradesh cadre.

OR

(4) An employee of Government of India or Government of India undertaking who is posted in Madhya Pradesh on or before first January, 2004.

OR

(5) A person who has settled permanently in Madhya Pradesh under some scheme of Government of India or Government of Madhya Pradesh.

OR

(6) A person who is Military Personnel (MP).

OR

(7) A person who is displaced person of Jammu & Kashmir settled in Madhya Pradesh.

Explanation 1:-- Certificate regarding bonafide resident of M.P. must be issued by the Collector or an Officer authorised by the Collector of the District concerned.

The certificate must show reference number, date of issue and seal and clear name and designation of Issuing Officer.

Explanation 2:-- Guardian of candidate means a person who from the date of the death of candidates, father and mother till the date of submitting application form is actual custodian and controller of candidate or his/her immovable property or both, in view of District Magistrate concerned, Guardian will have to necessarily produce a certificate saying so from a Competent Court. If the father of the candidate is not alive and mother is alive then mother only will be considered as a natural guardian of the candidate, no body else will be recognised as a guardian.

Proforma 10 has been brought on record as Annexure R-2. It reads thus:

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lUnHkZ dzekad ----- fnukad
----- ;g izekf.kr fd;k tkrk gS fd Jh@Jherh@dqekjh
-----vkRet@vkRetk@iRuh@Jh ----- tk
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dk fuoklh gS] D;ksafd &&

?1? e;/izns"k esa iSnk gqvk@gqbZ gSa A

vFkok

?2? ok@mldk ikyd@oS/k vfHkHkkod e;/izns"k esa fujarj de ls de 15 o"kksZa ls jg jgk gS A

vFkok

?3? mlds ikydksa esa ls dksbZ jkT; "kklu dk lsokjr ;k lsokfuo`Rr deZpkjh gS vFkok dsUnzh; "kklu dk deZpkjh gS tks e;/izns"k esa lsokjr gS A

vFkok

?4? og Lo;a vFkok mlds ikyd] jkT; esa fiNys ikap o"kksZa ls dksbZ vpy laifr] m] ksx vFkok O;olk; j[krsa gSa A

blds vfrfjDr &&

?1? mlus viuh f''k{kk e;/izns''k esa fLFkr fdLh Hkh ekU;rk izkIr f''k{k.k laLFkk esa de ls de rhu o''kZ rd izkIr dh gS] ftlesa d{kk ,d ds iwoZ dh f''k{kk lfEefyr ugha gksxh A

?2? mlus e;/izns''k fLFkr fdLh Hkh ekU;rk izkIr f''k{k.k laLFkk ls fuEufyf[kr ijh{kkvksa esa ls de ls de ,d ijh{kk mRrh.kZ dh gS%&

?d? 10 \$ 2 iz.kkYh dh nloha@ckjgoha d{kk dh ijh{kk A

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The Hindi version of the Rules has been brought on record as Annexure P-10 by the petitioner himself. Explanation 1 reads thus:

****Li''Vhdj.k 1**

e-iz- dk okLrfod fuoklh & mEehnokj e-iz- dk okLrfod fuoklh rHkh ekuk tkosxk tc og uhps nh x;h nksuksa ''krksZa ?v? ;k ?c? dh iwfrZ djsxk A

?v? og e;/izns''k esa iSnk gqvk gks A

vFkok

mEehnokj Lo;a ;k muds firk ;k ekrk@;fn firk thfor u gks@vFkok ekrk@firk nksuksa thfor u gksa rk mldk oS/k vfHkHkkod ijh{kk ds o''kZ ds igys de ls de ikap o''kksZa ls e-iz-esa dksbZ O;olk; vFkok O;kikj dj jgk gS vFkok mudh vpy laifRr gks A

,oa

?c? mlus e-iz- fLFkr ekU;rk izkIr laLFkk esa de ls de rhu o''kZ dk v/;;u fd;k gks ftlesa d{kk ,d ls iwoZ dh f''k{kk lfEefyr ugha gksxh A

vFkok mlus e-iz- fLFkr ekU;rk izkIr f''k{k.k laLFkk ls vkBoha d{kk] nloha d{kk@ckjgoha d{kk dh ijh{kk mRrh.kZ dh gks A

fVIi.kh && e;/izns''k ds okLrfod fuoklh laca/kh izek.k&i=@izk:i 10 ds vuqlkj@lacaf/kr ftyksa ds dysDVj }kjk izkf/kd`r }kjk tkjh fd;k tkuk pkfg, A bl izek.k&i= esa lUnHkZ dzeKad] tkjh djus dh frfFk o dk;kZy; lhy rFkk tkjh djus okys vf/kdjh dk uke o in dk Li''V mYys[k gksuk vo";d gSa A

Thus, Proforma 10 becomes a part of the requirement. I have already reproduced Proforma 10. The additional qualifications which have been added, in my considered opinion, would qualify the first four conditions. The submission of Mr. Shukla is that the additional qualifications would only qualify Clause 4 of the Proforma which means that candidate himself or his guardian should possess immovable property, or carrying on some business or industry for last five years. Learned Government Advocate for the State submits that the term ****blds vfrfjDr**** which would mean "in addition" would qualify every part and not only

the 4th part. I find substantial force in the submission of learned Government Advocate. Be it placed on record, whether the said Rules and the Proforma are valid or not is not the question to be gone into. The grievance of the petitioner is that he was not allowed to participate in the counselling. In Annexure P-5, though there has been a mention that the petitioner is the permanent resident of Madhya Pradesh but the additional eligibility criteria has not been satisfied. In the absence of the same, I find there was no error in not allowing the petitioner to participate in the counselling.

7. In the result, there is no merit in the writ petition and the same stands dismissed, without any order as to costs.