
(2018) 07 JH CK 0007

In the Jharkhand High Court

Case No : Writ Petition (S).No. 4150 of 2016

Dhirendra Kumar Mistry

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 03-07-2018

Acts Referred:

Citation : (2018) 07 JH CK 0007

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

Bench : Single Bench

Advocate : Manoj Tandon, Shiv Shankar Kumar, Baleshwar Yadav

Final Decision : Allowed

Judgement

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

2. Petitioner has approached this Court with a prayer for a direction to the respondents to consider the case of the petitioners for appointment to the post of Assistant Teachers in the district of Pakur for Class 1 to 5 in the category of 'NonPara' despite their being Para-Teachers, for which the petitioners have applied.

3. The facts of the case lies in a narrow compass. An advertisement being Advt. No. 1/2015 was floated by the Education Department for entire

State of Jharkhand for district wise appointment to the post of Assistant Teacher (Class I to V). As per the details of the advertisement, the persons

who were appointed and working as Para Teacher were to be given weightage and their percentage were also fixed. Petitioners, being para

teachers, applied against the posts reserved for the district of Pakur for para teacher. The case of the petitioners were considered for Pakur district

and they secured 56.49, 55.46 and 55.41 percentage of marks respectively in terms of the marks obtained in the academic qualification but they were not selected in the Pakur district. It is the specific case of the petitioners that persons having lesser marks than the petitioners have been selected and offered letter of appointment but the petitioners have been illegally denied. As the petitioners come within the zone of consideration for appointment, petitioner No.1 made representation on 14.12.2015 before the respondent-authorities for consideration of his case for appointment to the post of Assistant Teacher but the same was not considered and hence, the petitioners was constrained to move before this Court for redressal of their grievances.

4. Mr. Manoj Tandon, learned counsel appearing for the petitioners strenuously urges that admittedly the petitioner has obtained more marks than the candidates who have been selected and offered letter of appointment and though their name find place in the merit list, illegally and arbitrarily their candidature have not been considered and no letter of appointment has been offered to them. Mr. Tandon further argues that petitioners fulfill all the criteria laid down under the Rules for appointment known as Jharkhand Primary School Teacher Appointment Rules, 2012 and respondent-authorities have no power and jurisdiction to deny for issuing the appointment letters to the petitioners merely on the ground that the petitioners made their application for 'Non-Para' Category but in fact, the petitioners are Para-teacher. Learned counsel further argues that in the Guideline dated 29.05.2015, no provision was made to the effect that the para-teachers cannot be considered for appointment to the post of Teachers under Non-Para category. Learned counsel further argues that today a similar issue fell for consideration before this Court in W.P.(S) 2707 of 2016 and this Hon'ble Court after hearing the parties, settled the issue in favour of the petitioner and as such, this case may also be disposed of in terms thereof.

5. Per contra, no counter-affidavit has been filed. However, Mr. Baleshwar Yadav, learned counsel appearing for the respondents submits that in absence of counter-affidavit, he is not in a position to say as to why the case of the petitioners were not considered and they were not offered appointment letter though they have secured more marks than the last selected candidate.

6. Be that as it may, having gone through the rival submissions of the learned counsel for the parties, this Court is of the considered opinion that the case of the petitioners need consideration. Admittedly, the petitioners have obtained more marks than the last selected candidate in the district of Pakur. Though the counselling has come to an end, the respondents are directed to consider the case of the petitioner for their appointment to the post of Assistant Teacher in view of order passed by the Division Bench of this Honâ??ble Court and this Court in W.P.(S) No.2707 of 2016.
7. Let the entire exercise be completed within a period of eight weeks from the date of receipt/ production of a copy of this order and take a decision for appointment of the petitioners, in accordance with law, within a further period of three weeks.
8. Resultantly, the writ petition stands allowed.