

(2022) 07 SHI CK 0019

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 4646 Of 2022

Hari Pal

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 14-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 07 SHI CK 0019

Hon'ble Judges : Sabina, J;Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Vandna Thakur, Ashwani K. Sharma

Final Decision : Dismissed

Judgement

Sabina, J

1. Petitioner has filed the writ petition under Article 226 of the Constitution of India, seeking the following relief(s):-

“(a) That a writ in the nature of certiorari may very kindly be issued and thereby quashing and setting aside the selection of respondent No.6 which is against the policy as well law.

(b) That a writ in the nature of mandamus may very kindly be issued thereby directing respondents to consider the candidature of the petitioner.

(c) That the respondents be directed not to fill up the post of Part Time Multi Task Worker at Government Primary School Kafota, District Sirmaur.

(d) That the respondents may be directed to initiate selection process in conformity with Clause 7 of Scheme 2020 for filling up post of Part Time Multi Task Worker at Government Primary School Kafota, Gram Panchayat Kathwar, District Sirmaur, H.P.

(e) That the respondents may be directed to initiate the selection process as

prayed for in clause (iii) supra and take the same to logical end in a time bound manner.”

2. After hearing learned counsel for the parties, we are of the opinion that this petition is liable to be disposed of in terms of the order dated 15.06.2022, passed in CWP No.3728 of 2022, titled Smt. Bhawani Devi versus State of Himachal Pradesh & others. The operative part of the said order reads as under:-

“5. Some clarifications were sought on different issues by various quarters with regard to the allocation of marks and validity of various certificates/documents, etc. In this regard, the impugned clarification was issued on 24th May, 2022. A perusal of the said clarification reveals that a Committee had been constituted to examine the issues raised during recruitment process for engagement of part time multi task workers. On the basis of the recommendation of the Committee a clarification was issued on 24th May, 2022. A perusal of the clarification No.4 reveals that term ‘family’ will be “land owner or his/her spouse or children”. The said clarification has been issued by the respondents with a view to achieve the purpose of the scheme. This Court while exercising extra ordinary writ jurisdiction under Article 226 of the Constitution of India cannot interfere in the meaning given by the respondents vis-à-vis term ‘family’. As per the term ‘family’ defined for the purpose of the policy, petitioner does not fall within the definition of family. The respondents in their wisdom, with a view to effectively implemented the Policy, have defined term ‘family’ vide impugned recommendation dated 24th May, 2022. There is nothing on record to suggest that the definition of term ‘family’ has been given for any mala fide or extraneous consideration.

6. Learned counsel for the petitioner has further submitted that the clarification issued on 24.05.2022 is otherwise bad in law as it amounts to change in rules after initiation of selection process. The contention so raised by the petitioner is liable to be rejected for the simple reason that Clause 7(iv) of the Policy only provided for grant of eight marks to those candidates whose families have donated land for school. The term “families” as noticed above, had been used in general term. No details were provided as to who would be included in the term “families”. In view of this, it cannot be said that there is any change in the rules after initiation of recruitment process. The amendment is only clarificatory in nature and thus cannot be said to be bad in law.

7. In view of the facts and circumstances of the case, we are of the opinion that no ground for interference is made out. The instant petition is dismissed.”

3. In the present case, the land was donated by the grandfather of the petitioner. Thus, petitioner is the grandson of the donor of the land and does not fall within the definition of ‘family’ as per clarification dated 24.05.2022.

4. Accordingly, the instant writ petition is dismissed, so also pending miscellaneous application(s), if any.