

(2013) 01 RAJ CK 0134
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10772 of 2012

Indira Kumari Ahari

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 09-01-2013

Acts Referred:

Constitution of India, 1950 — Article 244

Citation : (2013) 2 CDR 596

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Arjun Purohit, for the Appellant; Mahendra Choudhary, for the Respondent

Final Decision : Allowed

Judgement

Govind Mathur, J.—By this petition for writ, the petitioner is claiming for a direction to get her candidature considered for the purpose of appointment as Teacher Grade-III Level-II in the subject of Social Studies against the vacancies reserved in District Udaipur for Scheduled Tribes of Tribal Sub-Plan Area. The factual matrix necessary to be noticed for adjudication of this petition for writ is that the Zila Parishad Udaipur under an advertisement dated 27.02.2012 invited applications from the eligible candidates to be considered for appointment as Teacher Grade-III (Level-II). An application in pursuant thereto was submitted by the petitioner and after facing the process of selection, she secured 86.07 merit marks. No appointment was accorded to her, though the respondents fixed 71.49 marks as cut-off marks for women candidates belonging to Scheduled Tribes in Tribal Sub-Plan Area. Being aggrieved by the same, this petition for writ is preferred.

2. It is submitted by learned counsel for the petitioner that as per the notification issued by the Governor of Rajasthan exercising powers under Clause 1 of Art. 244 of the Constitution of India, 45% of total vacancies in the districts of Tribal Sub-Plan Area are required to be filled in from among the local resident

Scheduled Tribes. The petitioner is a bonafide resident of Tehsil Kherwada in District Udaipur, therefore, her candidature should have been considered against the vacancies reserved for Scheduled Tribes (Women) belonging to Tribal Sub-Plan Area of District Udaipur.

3. Per contra, according to the respondents, the petitioner though is resident of Tehsil Kherwada, District Udaipur by birth, but after marriage, she is residing in District Dungarpur, therefore, her candidature cannot be considered against the vacancies pertaining to Tribal Sub-Plan Area of District Udaipur.

4. Heard learned counsel for the parties. The Governor of Rajasthan while exercising powers under Clause (1) of Art. 244 of the Constitution of India notified that in the specified Scheduled areas, 45% of total vacancies pertaining Government services, except State services, shall be filled in from among the members of the local Scheduled Tribe communities and if the recruitment is to be made on divisional level, then vacancies are required to be computed at division level and 45% of that is required to be filled from among the member of local Scheduled Tribes. In the event of recruitment at district level, the vacancies are required to be determined on district level by ear-marking reservation upto 45% for local resident Scheduled Tribes.

5. The petitioner claimed consideration for appointment for District Udaipur, but being married to a person belonging to District Dungarpur, her candidature was not considered against the reserved vacancies. The petitioner is admittedly a resident of District Udaipur and merely on the count that she entered into a wedlock with a person belonging to District Dungarpur, her local residency secured by birth has been abandoned. The petitioner, alongwith application form submitted by her to face process of selection, also annexed a certificate dated 21.03.2006, certifying that Village Tapan is part of Tribal Sub-Plan Area. She also appeared in Rajasthan Teachers Eligibility Test - 2011 by declaring herself as a resident of Tapan, as such, no reason exists for not treating her a resident of District Udaipur. The petitioner is admittedly a member of Scheduled Tribe and is resident of Tribal Sub-Plan Area. By birth she belongs to District Udaipur and as such, she is a local resident of that district. The respondents, thus, have wrongly denied consideration for appointment to her against the vacancies reserved for the members of Scheduled Tribes (Women) belonging to Tribal Sub-Plan Area of District Udaipur. Accordingly, this writ petition is allowed. The respondents are directed to consider the candidature of the petitioner against the vacancies reserved for women candidates belonging to Scheduled Tribes in Tribal Sub-Plan Area of District Udaipur and if she stands in merit, appointment be accorded to her.