
(2003) 09 JH CK 0049
In the Jharkhand High Court
Case No : C.W.J.C. No. 6657 of 1991 (P)

Jai Prakash Das and Others	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 30-09-2003

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2004) 1 JCR 260

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : V. Shivnath and Arvind Kr. Chowdhury, for the Appellant; Shamim Akhtar, SC II and Arbind Kr. Mehta, JC to SC II, for the Respondent

Final Decision : Dismissed

Judgement

Amarehswar Sahay, J.—In the present writ application the petitioners have prayed for a direction to issue orders of appointments of the petitioners as Assistant Teachers in the reserve category of the Scheduled Caste on the basis of the panel which was prepared for appointments under the Harijan Category candidates.

2. The case of the petitioners is that pursuant to the advertisement issued by the respondents for filling up the post of Assistant Teacher in the Primary schools, a districtwise panel was prepared. The petitioners also applied for the said post pursuant to the said advertisement and were empanelled under the Harijan category candidates. A list of such Harijan category candidates has been annexed as Annexure-1 to the writ application, which according to the petitioners, is a panel of untrained Harijan Category candidates mentioning altogether 34 names. The petitioners have figured in the said list at serial Nos. 25 to 33. However, from Annexure-1 it does not appear that when and under whose order, same was issued. Nothing has been stated in the writ application also as to when this panel was prepared. The further case of the petitioners in the writ application is that from the said list as contained in Annexure-1 it

appears that though the candidates mentioned from serial Nos. 1 to 24 have already been appointed as Assistant Teachers but the petitioners, who figured from serial Nos. 25 to 33 in the said list, were not appointed. The further case of the petitioners is that though the vacancies still exist but they have not been given appointments.

3. This writ application is one of such cases which have been filed large numbers before the Patna High Court as well as in the Ranchi Bench of the Patna High Court wherein a prayer was made for appointments to the post of Assistant Teachers in different schools in the entire State of Bihar on the basis of the panel prepared prior to 1987.

4. It is relevant to note that pursuant to the order of the Government of Bihar a districtwise panel was prepared for appointments of the Assistant Teachers in the entire State of Bihar. However, preparation of the districtwise panel was challenged before the Patna High Court and the Division Bench of the Patna High Court in the case of Anil Kumar v. State of Bihar reported in 1987 PLJR 846 quashed the panel prepared districtwise holding to be violative of Articles 14 and 16 of the Constitution of India. However, it was held in the said decision that any person who had already been appointed pursuant to the panel so prepared districtwise shall not be effected as they were not parties before the High Court in the said case.

5. Pursuant to the said decision in Anil Kumar case (supra) the Government of Bihar cancelled all the panels so prepared districtwise vide Government letter No. 164 dated 2.7.1989 addressed to all the Collectors and Deputy Collectors of District.

6. In the present case also the stand of the State is that since the districtwise panel of the entire State of Bihar has already been cancelled, therefore, the panel on the basis of which the petitioners claimed to be appointed is a dead panel and therefore, no appointment can be made from the said dead panel.

7. A batch of the writ applications regarding the appointments to the post of the Assistant Teachers in the primary school came for consideration before the High Court but all those writ applications were dismissed relying on the decision reported in 1994 (1) PLJR 62, and Anil Kumar case (supra). In the case of Binod Kumar Tiwary and Others Vs. The State of Bihar and Others. In Binod Kumar Tiwary's case, it was held that if appointment continued to be made from the panel which has been become old and stale by efflux of time, it will be violative of Articles 14 and 16 of the Constitution of India and therefore, no appointment from the panel prepared long ago can be made.

8. In the present case also, according to the petitioners themselves, the panel was prepared sometimes in between 1987 to 1989 as would appear from the statements made in the writ application as well as the Annexures to the writ application and therefore, no direction can be issued to appoint the petitioners on the basis of the said old panel which has been become dead by efflux of time and more so in view of the fact that the said districtwise panel has already been

cancelled by the Government of Bihar as stated in the counter affidavit filed by the respondents.

9. In that view of the matter, no relief can be granted to the petitioners and therefore, this writ application is dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.