

(2017) 01 JH CK 0186
In the Jharkhand High Court
Case No : 4773 of 2007

Jalaluddin Rangsaaz, S/o Wasiruddin Mian	APPELLANT
Vs	
The State of Bihar (Now Jharkhand)	RESPONDENT

Date of Decision : 05-01-2017

Acts Referred:

Citation : (2017) 01 JH CK 0186

Hon'ble Judges : Shree Chandrashekhar

Bench : SINGLE BENCH

Judgement

1. The petitioner claiming to have secured more than the qualifying marks seeks a direction for his appointment as constable driver.
2. Heard.
3. The learned counsel for the petitioner contends that the petitioner qualified in the written, physical, mechanical and driving tests and he secured 41 marks which is more than the qualifying marks, still he has not been appointed whereas, the other candidates who do not possess license for Heavy Motor Vehicle (HMV) have been appointed. It is contended that neither a candidate who does not possess requisite HMV license can be validly appointed nor in the middle of the selection process eligibility criteria can be changed to accommodate the candidates who initially did not possess HMV licenses.
4. Referring to the stand taken in the counteraffidavit, the learned State counsel controverts the contentions raised on behalf of the petitioner. It is submitted that the petitioner could secure only 40 marks whereas, last selected candidate in BC category had secured 42 marks.
5. From the materials brought on record it appears that the whole claim of the petitioner is based on the remarks " HMV Not Attached" in the merit list prepared for Palamau, Garhwa and Latehar districts. Such remarks obviously would not mean that those candidates who did not attach HMV licenses were not holding

such licenses. It appears that in the light of police order No.06/2003 the condition for possessing HMTV licenses in Advertisement No.02/2004 was modified and the candidates possessing Light Motor Vehicle (LMV) licenses were also made eligible. A copy of police order No. 06/2003 (1st amendment) has been produced by the respondents. In fact, Advertisement No. 02/2004 stipulates as under: (Vernacular matter omitted.Ed.) [Licence for driving Motor Vehicle:Only such candidates can appear in the selection process for appointment who are possessing license(for driving heavy and light/heavy vehicle) which has been issued at least two years prior to the date of advertisement.]

6. In the aforesaid facts, if the candidates who were holding LMV licenses were also permitted to participate in the selection process for appointment of the driver constables, it cannot be contended that essential eligibility condition has been relaxed in favour of a chosen few. By modifying the criteria for holding license, right of the petitioner has not been adversely affected. It has been pleaded by the respondents that out of 57 vacancies which were to be filled up, 33 posts were for Palamau and Latehar districts and 24 for Garhwa district. A merit list of altogether 69 candidates was prepared and 27 candidates belonging to OBC category who had obtained 42 marks were appointed. Respondents have specifically asserted that none of the candidates who has secured 40 marks has been appointed as constable driver.

7. Considering the aforesaid facts, I find no substance in the writ petition and accordingly, it is dismissed. Petition dismissed.