

(2018) 12 RAJ CK 0225

In the Rajasthan High Court

Case No : Civil Writ Petition No. 25994 Of 2018

Jasveer Kaur

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 05-12-2018

Acts Referred:

Citation : (2018) 12 RAJ CK 0225

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Banwari Sharma, Namo Narayan Sharma, Garima Arya, Shyam Arya

Final Decision : Disposed Off

Judgement

The petitioner challenges the action of the respondents in not giving proper opportunity for documents verification on the waiting list for the post of Medical Officer being operated, such as by intimation by way of SMS on her recorded mobile number or even on the petitioner's E-mail address available with the respondents. The petitioner's case is that consequently the petitioner despite her merit position in the waiting list at 245 overall and at 11 in the OBC (Female) category will be denied appointment to the post of Medical Officer with the Department of Medical and Health Service, Govt. of Rajasthan even while those lower than her on merit on the waiting list are likely to be so appointed.

The facts of the case are that the petitioner applied for appointment to the post of Medical Officer. She was admitted thereto and following her result declared, stood at 245 in overall waiting list and at serial no.11 in the category of OBC (Female).

Appointment to those, who passed the written examination and in the main select list having been offered and several of such candidates, not having joined, a decision was taken by the Director, Medical and Health Service on 18.9.2018 to operate the waiting list. The information with regard to this decision to operate the waiting list was however not published on the website of RUHS where earlier

information with regard to the examinations had been published. Nor any intimation in regard thereto sent personally to the petitioner either by SMS on her mobile phone or E-mail address available with the Department. The notice of the operation of the waiting list and candidates therein entitled to verification of their documents for appointment to the post of Medical Officers was issued on 18.9.2018 on the website of Medical Health Department, requiring them to appear within on 20th 21st September, 2018 before the Director, Medical Health and Family Welfare Services, Govt. of Rajasthan for verification of their documents. It has been submitted that the petitioner had given birth to a girl child on 16.6.2018 and for this reason too she could not otherwise keep track of events including the waiting list for appointment of Medical Officer being operated and the dates of the necessary documents verification from those in the list for the purpose. Thus she could not be present for document verification before the Director, Medical Health and Family Welfare Services either on 20th or 21st September, 2018. Resultantly she is being denied consideration for appointment to the post of Medical Officer despite her merit. It has been submitted that vacancies on the post of Medical Officer still obtain and in the event the respondent were directed to have documents of the petitioner now verified she is likely to be appointed as per her merit and no prejudice to any third party would be occasioned therefrom.

Per contra, Ms.Garima Arya, AAG appearing for Mr.Shyam Arya, AAG submitted that the petitioner having failed to respond to the notice dated 18.9.2018 for verification of her documents on 20/ 21.9.2018, no arbitrariness or illegality in her not being considered for appointment to the post of Medical Officer as per her merit in the waiting list can be made out. She submitted that the notification to operate the waiting list could have only been issued by the Appointing Authority, i.e. Department of Medical & Health Services, Govt. of Rajasthan and not by RUHS which conducted the examination for the purpose.

Heard. Considered.

Admittedly the petitioner is in the waiting list at serial no.245 in the overall and at serial no.11 in the category of OBC (Female). The petitioner apparently was not informed either by SMS/ or by E-mail address registered with the Medical and Health Department about the waiting list being operated or of the need to have her documents verified on 20th or 21st, September, 2018. A valuable right of appointment on the basis of merit determined in the open and transparent manner-even vis-a-vis a waiting list should be not causally treated such as by way of general information for verification of documents published on the website of Department concerned. Instead it should be carefully preserved by conveying the requisite information, to the meritorious candidates, entitled for appointment, by way of SMS or by E-mail address on record with the department or otherwise capable of being culled out from their application forms.

Besides the date for verification of documents of meritorious candidates is not written in stone. It cannot be held to be mandatory nor its accidental breach fatal

to the right of a meritorious candidate to be appointed.

In the circumstances, I would dispose of this petition and direct the Director, Medical Health and Family Welfare Services, Govt. of Rajasthan to verify the petitioner's requisite documents for her appointment to the post of Medical Officer pursuant to the advertisement dated 9.1.2018 on or before 10th December, 2018 and in the event of the petitioner being entitled for appointment to the said post on merit and the requisite vacancy obtaining, she be so appointed.

The petition stands disposed of accordingly.