

(2018) 10 RAJ CK 0076
In the Rajasthan High Court
Case No : Civil Writ No. 14110 of 2018

Kamlesh Pargi @APPELLANT@Hash State Of Rajasthan

Date of Decision : 29-10-2018

Acts Referred:

Citation : (2018) 10 RAJ CK 0076

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Sanjay Nahar, Rakesh Arora, Deepika Purohit, P.R. Singh

Final Decision : Partly Allowed

Judgement

This writ petition has been filed by the petitioner seeking a direction to the respondents to consider the candidature of the petitioner in TSP area

category and issue the original mark-sheet of Rajasthan Eligibility Examination for Teachers, 2017 (REET, 2017) showing the petitioner as

eligible for Teacher Gr.III (Level-II).

It is, inter alia, indicated in the writ petition that the petitioner appeared in REET 2017 and obtained 57.33% marks and vide Annex.3 was eligible for

Level-II in the mark-sheet uploaded by the respondent - Board. An advertisement dated 31.7.2018 for recruitment of Teacher Gr.III (Level-II)

Science and Maths for TSP area was issued, wherein, inter alia, eligibility indicated was 60% marks in REET, however for the Scheduled Tribe

candidates of scheduled areas, the eligibility was indicated at 36% marks in REET.

The petitioner applied pursuant to the said advertisement for the post of Teacher Gr.III (Level-II) Science and Maths in category of TSP (ST). The

petitioner got marks higher than the cut-off marks i.e. 55.05% marks, whereas, the cut-off for the petitioner's category was 53.89% marks. The

petitioner was selected and when pursuant to the select list, the petitioner

appeared before the concerned authorities for document verification at District Pratapgarh on 7.9.2018 and got the documents verified, the respondents required original mark-sheet of REET, 2017.

It is submitted that when the petitioner approached the respondent No.4 for issuance of original mark-sheet, he was told that as the petitioner had

failed in REET, 2017, the mark-sheet can't be issued. It is submitted by learned counsel for the petitioner that admittedly the petitioner had

obtained 57.33% marks in REET, 2017 and the eligibility condition for TSP (ST) candidates is 36% marks in REET, 2017 for grant of appointment as

Teacher Gr.III (Level-II), it is submitted that though the petitioner may not have got 60% marks, which are required for General category candidates

for passing REET, 2017 and being eligible for Teacher Gr.III (Level-II), the same cannot be a reason for denying appointment to the petitioner in

terms of the advertisement and, therefore, the action of the respondents in this regard deserves to be set aside.

Learned counsel appearing for the Board submitted that the petitioner had applied as General candidate for appearing in REET, 2017 and, therefore,

he was required to obtain 60% marks for being eligible and as the petitioner had obtained 57.33% marks, he was found ineligible and the Board as a

Policy doesn't issue the mark-sheet to ineligible candidates, the mark-sheet cannot be issued to the petitioner. However, it is not disputed that the

petitioner had obtained 57.33% marks in REET, 2017.

Learned counsel appearing for the respondent - State submitted that the requirement of producing the original mark-sheet of REET, 2017 cannot be

dispensed with and, therefore, the petitioner is not entitled to any relief. I have considered the submissions made by learned counsel for the parties and

have perused the material available on record.

The fact that for a candidate belonging to ST category of TSP area, the eligibility condition for appointment to the post of Teacher Gr.III (Level-II) is

36% in REET and that in REET, 2017 the petitioner had obtained 57.33% marks is not in dispute and, therefore, apparently the petitioner is eligible for

grant of appointment on the post of Teacher Gr.III (Level-II). However, from the material available on record, it is apparent that as the petitioner had

appeared in REET, 2017 without indicating his status as ST candidate of TSP area, despite obtaining 57.33% marks, he was declared as ineligible for

Level-II and was denied issuance of original mark-sheet by the Board of Secondary Education based on its Policy not to issue mark-sheet to ineligible candidates.

However, this is also a fact that the Board in its reply has specifically admitted that the petitioner had obtained 57.33% marks in REET, 2017, which

essentially fulfills the requirement of confirmation of petitioner's marks by way of verification while granting appointment to the petitioner and,

therefore, even if the Board has refused to issue the mark-sheet, the marks of the petitioner in REET, 2017 at 57.33% stands verified/established,

which must suffice for the State and in absence of original mark-sheet, which is not being issued by the Board, the petitioner cannot be deprived of the

appointment as he otherwise stands in merit.

In view of the above discussion, the writ petition filed by the petitioner is partly allowed. The respondents No.1 to 3 are directed to consider the

candidature of the petitioner for the post of Teacher Gr.III (Level-II) Science and Maths (TSP) by taking his marks as 57.33% in REET, 2017 as

verified. For the purpose of record, a photocopy of the petitioner's mark-sheet duly authenticated by the petitioner shall be kept on record of the

respondents and the petitioner shall be granted appointment in terms of his merit, if he is otherwise eligible for such appointment with all consequential

benefits. Needful may be done by the respondents within a period of four weeks from the date a certified copy of this order is placed before the

respondents.