

(2019) 02 UK CK 0049

In the Uttarakhand High Court

Case No : Writ Petition (SB) No. 71 Of 2019

Kavindra Singh Kanyal

APPELLANT

Vs

State Of Uttarakhand And Anther

RESPONDENT

Date of Decision : 25-02-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2019) 02 UK CK 0049

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Ganesh Kandpal, Paresh Tripathi, D.S. Patni

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri Ganesh Kandpal, learned counsel for the petitioner, Sri Paresh Tripathi, learned Chief Standing Counsel appearing for the State of Uttarakhand and Sri D.S. Patni, learned Standing Counsel for the second respondent and, with their consent, this writ petition is being disposed of at the stage of admission.

2. The petitioner, an Engineering graduate from Uttarakhand Technical University, Dehradun secured 64.55% marks in his B.Tech course. He is aggrieved by the prescription of a minimum cut-off marks of 65% by the second respondent-Corporation.

3. The submission, urged on behalf of the petitioner, is that, while the second respondent-Corporation has prescribed a higher cut-off marks of 65%, the other two Corporations in the public sector i.e. the Uttarakhand Power Transmission Corporation and the Uttarakhand Jal Vidhyut Nigam have prescribed a minimum cut-off marks of 60% and 55% respectively; and there should be parity in all the three Corporations with regards prescription of the cut-off marks, more so as the process of selection involves all applicants being subjected to a written examination followed by an interview.

4. All the three Corporations i.e. the second respondent Corporation, the Uttarakhand Power Transmission Corporation and the Uttarakhand Jal Vidhyut Nigam are distinct legal entities, and are companies incorporated under the Companies Act. They are governed by their Memorandum and Articles of Association which are distinct and separate for each of these Corporations. While the second respondent-Corporation is bound by its Memorandum and Articles of Association, and is required to undertake the process of selection on the policy guidelines issued by its Board of Directors, the other Corporations are required to adhere to their respective Memorandum and Articles of Association, and the policy guidelines framed by their Board of Directors, and not that of the second respondent. As each of these Corporations is a distinct legal entity, it is for each of them to prescribe a minimum standard based on which candidates would be selected for appointment to posts in their respective organisations.

5. The mere fact that the Uttarakhand Power Transmission Corporation and the Uttarakhand Jal Vidhyut Nigam have prescribed a lower minimum cut-off marks of 60% and 55% respectively, would not, by itself and without anything more, require the second respondent-Corporation also to do so. If the second respondent-Corporation intends to permit only more meritorious candidates who secured a minimum of 65% marks, to be considered for appointment in its organization, such an action, on their part, cannot be said to be arbitrary or to violate Articles 14 & 16 of the Constitution of India.

6. In the present case, however, the petitioner has secured 64.55% marks in his graduation, which is 0.45% less than the minimum cut-off marks of 65%.

7. While Sri D.S. Patni, learned counsel for the second respondent-Corporation, would contend that the writ petition as filed is premature, and the petitioner seeks relaxation in the minimum cut-off marks for future recruitment as and when held, the fact remains that the second respondent-Corporation had, in its earlier process of selection, prescribed a minimum cut-off marks of 65%.

8. As noted hereinabove, the question whether the second respondent-Corporation should continue with the minimum cut-off marks of 65%, like it did in the previous recruitment, for future recruitment also, are all matters for the Board of Directors of the second respondent-Corporation to decide, and not for this Court to prescribe. Suffice it, in such circumstances, to permit the petitioner to make a representation to the second respondent-Corporation, which shall consider such representation and take an appropriate decision, as it deems fit, on whether to retain the minimum cut-off marks of 65% in the next recruitment or to reduce it.

9. Subject to the aforesaid observations, the writ petition fails and is, accordingly, dismissed. No costs.