

(2020) 08 RAJ CK 0007
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9158 Of 2018

Mahima Bhatra	Vs	APPELLANT
State Of Rajasthan And Ors		RESPONDENT

Date of Decision : 05-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0007

Hon'ble Judges : Inderjeet Singh, J

Bench : Single Bench

Advocate : Tanveer Ahamad, Vaibhav Thakuria, Dr. Ganesh Parihar

Final Decision : Allowed

Judgement

This Court while issuing notices to the respondents passed the following order on 30.04.2018 which reads as under :-

Issue notice of the writ petition as well as stay application, returnable within three weeks. Notices may be given 'dasti', if desired.

In the meanwhile, one post of OBC (Divorcee) category of Teacher Gr.III Level-II English subject will not be filled by the respondents as the

petitioner was already declared selected as per order dt.24.05.2017 issued by the Panchayat Samiti, Rajgarh District Alwar.

Counsel for the petitioner submits that the issue involved in this writ petition has been considered and decided by a Coordinate Bench of this Court at

Principal Seat, Jodhpur in the matter of Sita Ghotiya Vs. State of Rajasthan & Anr., S.B. Civil Writ Petition No.12883/2017, decided on 12.10.2017

wherein it has been held as under :-

Learned counsel for the petitioner submits that the controversy involved in the present case is squarely covered by Division Bench decision dated

18.04.2017 rendered by this Court at Jaipur Bench in D.B. Special Appeal Writ No.247/2017 (State of Rajasthan & Anr. Vs. Rashmi Agrawal).

The case in brief are that the petitioner submitted her application form for the post of Teacher Grade-III (Level I & II) for the recruitment of 2013. At

the time of submitting her application form on 28.08.2013, she had stated her category to be widow, however, subsequent thereto, she got re-married on 20.02.2015.

Petitioner's candidature has been rejected by the respondents in wake of the subsequent status of the petitioner, which she acquired as a result of her re-marriage aforesaid.

Learned counsel for the respondents has filed the reply and stated that the petitioner's rejection on the ground of re-marriage is lawful.

The issue at hand is squarely covered by Division Bench decision dated 18.04.2017 in case of Rashmi Agrawal (supra). The operative portion thereof is reproduced hereunder :-

Having perused the impugned order we find no infirmity therein. The view taken is that eligibility is with reference to the last date of submitting the applications and not the declaration of the result. The respondent was a divorcee on the date when she applied. She got re-married when result were declared. Her entitlement for appointment under the divorcee quota has rightly been upheld.

The writ-appeal is dismissed. The stay application also stands dismissed.

No costs

Vide aforesaid judgment dated 18.04.2017 the Division Bench has affirmed the judgment dated 23.11.2016 rendered in S.B. Civil Writ Petition

No.15594/2016 (Rashmi Agrwal vs. State of Rajasthan & Anr.). It will not be out of place to reproduce the relevant portion of the judgment dated

23.11.2016 rendered by the Coordinate Bench of this Court :-

Two questions have arisen for consideration before this Court; (a) Whether a candidate who re-marry will lose status of Divorcee and (b) what is the reckoning date for determination eligibility of the candidate in the category of Divorcee.

It is not doubt that when the petitioner went to join her services, she was married lady, but it is also undeniable that when the petitioner applied and on

the last date of submission of application form, the petitioner was Divorcee. Therefore, the status of the petitioner is to be determined on the last date

for submission of application form. A subsequent event cannot take away legal character of the petitioner, which existed on the last date for

submission of application form. Surely, policy of the state is not to encourage that a Divorcee should remain Divorcee for ever.

Thus, a hyper-technical objection cannot be raised by the respondents qua the reckoning date for determination of the legal character of the petitioner,

whether she was Divorcee or not on the last date fixed for submission of application form.

Since, on the last date for submission of application form, the petitioner was a Divorcee, she is entitled to appointment and joining in pursuance thereof.

Consequently, the present petition is allowed. The action of the respondents whereby petitioner has been denied appointment is set aside. The

respondents are directed to permit the petitioner to join her place of posting within one month from the date of receipt of certified copy of this order"".

Following the aforesaid Single Bench judgment dated 23.11.2016 duly affirmed by Division Bench, vide order dated 18.04.2017, the present writ

petition is allowed. Petitioner's rejection on the ground of her re-marriage is quashed and set aside.

Respondents are directed to give appointment to the petitioner in accordance with law and issue order of appointment, if she falls in merit list and is

otherwise eligible. The needful be done within a period of eight weeks from today.

Counsel appearing on behalf of the respondents has not disputed the judgment passed by the Coordinate Bench of this Court at Principal Seat, Jodhpur

in the matter of Sita Ghotiya (supra).

In that view of the matter, the present writ petition is disposed of in view of the judgment passed by the Coordinate Bench of this Court at Principal

Seat, Jodhpur in the matter of Sita Ghotiya (supra). The respondents are accordingly directed to give appointment to the petitioner in accordance with

law and issue order of appointment if she falls in the merit list and is otherwise eligible. Needful be done within a period of eight weeks from today.