

(2020) 10 JH CK 0055
In the Jharkhand High Court
Case No : W.P.(S) No. 3486 Of 2019

Manoj Kumar And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 14-10-2020

Acts Referred:

Jharkhand Govt. High School Teacher And Teaching Staff Appointment And Service Condition Rules, 2015 — Rule 9(i)

Citation : (2020) 10 JH CK 0055

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Aanya, Ashish Kumar, Sanjoy Piprawal

Final Decision : Disposed Of

Judgement

1. Heard Ms. Aanya, the learned counsel appearing on behalf of the petitioners, Mr. Ashish Kumar, the learned State counsel appearing on behalf of the respondent State and Mr. Sanjoy Piprawal, the learned counsel appearing on behalf of the respondent-JSSC.

2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

3. The present writ petition has been filed for direction to fill up the vacant seats which were kept reserved for Govt. School teachers in terms of Rule 9(i) of Jharkhand Govt. High School Teacher and Teaching Staff Appointment and Service Condition Rules, 2015.

4. Ms. Aanya, learned counsel appearing for the petitioners submits that pursuant to Advertisement of the year 2016, the petitioners applied for the post of Trained Graduate Teacher (TGT) for subject-wise and district-wise vacancies as mentioned in the advertisement. The petitioners appeared in both the

examination i.e. compulsory and mains examination and after successfully qualifying both the examinations, the petitioners were called for counselling/document verification vide notification on different dates published in the website of Jharkhand Staff Selection Commission issued under the signature of respondent no.4. After that, on the basis of the marks obtained by each candidate in their specific subject concerned, merit list was prepared and appointment letters were to be made.

5. Ms. Aanya, learned counsel for the petitioners submits that petitioners belong to non-scheduled and unreserved districts of Jharkhand and petitioners are not covered under the aforesaid notification. He further submits that the said notification was challenged before the Full Bench of this Court in the case of "Soni Kumari & Others Vs. State of Jharkhand & Others" being W.P.(C) No. 1387 of 2017.

6. Ms. Aanya, learned counsel for the petitioners submits that now the matter can be disposed of in the light of the judgment passed by three Judges Bench of this Court in the case of Soni Kumar & Others Versus The State of Jharkhand & Others passed in W.P.(C) No.1387 of 2017 vide order dated 21.09.2020 particularly Para 66 which is quoted hereinbelow:-

66. We also propose to make it abundantly clear that by the ad interim order dated 18.9.2019 passed by this Court in these writ applications, the selection process was never stayed by the Court in the non- scheduled districts, though, as informed to us, it had erroneously been taken by the State Government like that. There was no stay for appointments on any post in the non-scheduled districts, or for that matter there was no stay for the appointments even in the scheduled districts, rather, only the operation of the Notification No. 5938 dated 14.7.2016 was stayed by this Court. In other words, the appointments could be continued to be made even in the scheduled districts, ignoring the aforesaid notification.

7. Ms. Aanya, learned counsel for the petitioners submits that the petitioners are belonging from non-scheduled districts and there is no stay operation and in view of the observation made in Paragraph 66 of the Full Bench judgment, the writ petition can be disposed of considering the case of the petitioners.

8. Mr. Piprawal, the learned counsel appearing for the respondent-JSSC, at the outset, submits that the Notification No.22641 dated 29.08.2019 issued by School Education and Literacy Department, Government of Jharkhand whereby filling up of the posts for the subjects of Hindi, English, History/Civics, Geography, Maths/Physics and Biology/Chemistry is already there. He further submits that in view of Full Bench judgment in Soni Kumari" case, the matter can be disposed of in the light of paragraph no.66 of the said judgment.

9. Mr. Sanjay Piprawall, learned counsel appearing for respondents-Jharkhand Staff Selection Commission further submits that the writ petition can be disposed of only to the effect that JSSC will examine as to whether the petitioners are

coming under the zone of consideration or not and if they are under the zone of consideration, appropriate order will be passed.

10. In view of above facts and considering the submission of learned counsel for the parties, the writ petition is being disposed of with direction to the petitioners to file fresh representation before the respondent no.3 within a period of three weeks from today. If such representation is filed before respondent no.3, he will take a decision in accordance with observation made in Full Bench judgment in the case of "Soni Kumari " (supra) and he will examine as to whether the petitioners are coming within the zone of consideration or not. The respondent no.3 will pass appropriate reasoned order within a period of eight weeks thereafter.

11. With the above observations and directions, the writ petition [W.P.(S) No. 3486 of 2019] stands disposed of.

12. The petitioners are at liberty to take appropriate step with regard to other prayers, if so desire.