

(2018) 05 RAJ CK 0195
In the Rajasthan High Court
Case No : Spl. Appl. Writ No. 1155 of 2017

Meena Meena @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 28-05-2018

Acts Referred:

Rajasthan High Court Rules, 1952 — Rule 134

Citation : (2018) 05 RAJ CK 0195

Hon'ble Judges : GOPAL KRISHAN VYAS, J; RAMCHANDRA SINGH JHALA, J

Bench : Division Bench

Advocate : Meena Meena, Avichand Chaturvedi, Zila Parishad

Final Decision : Allowed

Judgement

G.K. Vyas, J.

The instant special appeal has been filed by the appellant under Rule 134 of the Rajasthan High Court Rules, 1952, against the judgment dated

13.12.2017 passed in SBCWP No.14573/2017 whereby the learned Single Judge dismissed the writ petition filed by the appellant/petitioner in view of

order passed in the case of *Â Rekha Vs. State of Rajasthan & Ors.* (SBCWP No.15677/2017, decided on 29.11.2017) whereby the said writ petition

was disposed of in terms of judgment in the case of *Brijesh Kumari Vs. State of Rajasthan & Ors.* (SBCWP No.18821/2017, decided on 08.11.2017),

in which an order was passed by the learned Single Judge that the date of document verification i.e. 16.11.2017 and 17.11.2017 fixed by the Zila

Parishad concerned for document verification were substituted by the dates viz. 11.12.2017 and 12.12.2017.

Â Appellant/petitioner is present in person, belongs to Scheduled Tribe (ST)/ Woman/Divorcee category. After acquiring the qualification of graduation

in the year 2009, she acquired

B.Ed. Degree in the year 2011, so also, acquired Rajasthan Teachers Education Test (RTET) conducted by the Board of Secondary Education, Ajmer with 45.33% for Level-II in

ST/Woman/Divorcee. It is stated by the petitioner that respondent State issued an advertisement inviting applications for appointment on the post of

Teacher Grade III Level-I and II for various Zila Parishad(s). The appellant/petitioner in pursuance of said advertisement applied for the post of

Teacher Grade II in Social Study subject at Zila Parishad, Jodhpur under the ST/woman/divorcee category and being found eligible in all respect was

allowed to appear in the competitive examination held on 11.10.2013. In the said selection process, the appellant stood in merit for appointment. A

press-note was issued for verification of the documents by the Zila Parishad, Jodhpur after revision of list and the cut off marks in the revised merit

list in ST/Woman/Divorcee category were 146.97 marks in Social Study.

The case of the appellant/petitioner is that she was in the merit list after revision of the result under the category of ST/Woman/ Divorcee and as per

the press-note all the candidates under the ST/woman/divorcee were directed to appear in the concerned Zila Parishad on 10.10.2017 for verification

of their documents.

As per contention of the appellant she belongs to rural area, therefore, could not see the press-note in time and for the first time, press-note came to

her knowledge on 11.10.2017, therefore, she approached the respondent- Zila Parishad, Jodhpur and made request for verification of documents but

the respondent Zila Parishad refused to verify her documents despite the fact she had secured more marks than the cut-off marks declared by the

respondents and refused her to provide appointment on the post of Teacher Grade-III Level-II.

Being aggrieved by and dissatisfied with the aforesaid denial of verification of the documents and appointment, the appellant/writ-petitioner

preferred writ petition being SBCWP No.14573/2017 on 10.11.2017, in which certain defects were pointed out by the office, but those defects were

not removed by her counsel. The aforesaid writ petition was filed by the petitioner on 10.11.2017 but unfortunately her writ petition was not listed

in the court on 29.11.2017 when other identical writ petitions were listed and decided by the learned Single Judge, in which an order was passed that

the documents of the candidates may be verified on 11.12.2017 and 12.12.2017. The writ petition filed by the petitioner was listed a day after i.e. on

13.12.2017 when the documents were to be verified, therefore, the learned Single Judge dismissed the writ petition on the ground that the date of

verification has already been expired on 12.12.2017 just one day before deciding the writ petition filed by the appellant/petitioner.Â

Â In this appeal, appellant herself present-in-person, submits that she belongs to poor family, that too ST/woman/divorcee, therefore, lenient view may

kindly be taken for the purpose of providing her opportunity of verification of the documents as there was no fault of her for not listing the writ petition

when other identical writ petitions were decided on 29.11.2017 and the Zila Parishad may be directed to verify the documents and consider her case

for appointment if the candidates having lesser percentage than her have been provided appointment on the post of Teacher Grade-III.

Â A written submission has been submitted by the respondent- Zila Parishad, Jodhpur stating therein that as per the judgment in the case of Brijesh

Kumari (supra), the documents of all the candidates were verified on 11.12.2017 and 12.12.2017 and for remaining unfilled vacancies in pursuance of

order passed in SBCWP No.4718/2018- Mamta Bunkar Vs. State of Rajasthan & Ors., decided on 17.03.2018, again verification was conducted on

13.04.2018 by issuing cut off list in which appellant did not appear, therefore, now all the unfilled vacancies under the ST/Woman/Divorcee have been

filled-in, therefore, no interference is called for in this appeal.Â

Â Â Â Â Â Â Â Â Â Â Â After hearing the appellant, present in person and the C.E.O. of Zila Parishad, Jodhpur, we have considered the entire

pleadings of the case. It is unfortunate case of a lady belong to weaker section of the society i.e. ST/Woman/Divorcee, in which due to inaction and

negligence on the part of her lawyer, though the writ petition filed by her on 10.11.2017 was not listed in the court along with identical petitioners

because the defects were not removed by the date when other identical bunch of writ petitions was listed in the court, which was decided by this

Court in the case of SBCWP No.15677/2017-Rekha Vs. State along with connected matters on 29.11.2017, in which directions were issued that the

documents may be verified on 11.12.2017 and Â 12.12.2017. The writ petition filed by the appellant/petitioner was listed on 13.12.2017 but on that

date, the learned Single Judge dismissed the writ petition on the ground that date for verification of the document as per order of this Court was

12.12.2017, which has already been expired but it is revealed from the written submissions submitted by C.E.O., of Zila Parishad, Jodhpur that even

after decision in the case of Rekha (supra), in another writ petition being SBCWP No.4718/2018 (Mamta Bunkar Vs. State & Ors.) an order was

made on 17.03.2018 to fill in the remaining vacancies and again documents were verified on 13.04.2018 and before that a public notice was published

in the daily newspaper, viz. "Dainik-Bhaskar" on 19.03.2018 and thereafter again documents were verified and appointments were made after

due verification of the documents.Â

Â It is very unfortunate case in which firstly the writ petition was dismissed on the ground that the last dates for verification of the documents which

were 11.12.2017 and 12.12.2017 fixed by the court expired, and again the learned Single Judge entertained writ petition of one Mamta Bunkar (supra),

wherein an order was passed to fill in the remaining vacancies, for which verification proceedings were conducted on 13.04.2018. Meaning thereby,

even after dismissal of the writ petition filed by the petitioner, in another case, an order was passed by learned Single Judge for verification of the

documents in CW No.4718/2018 (Mamta Bunkar Vs. State & Ors.) as the vacancies remained unfilled but due to dismissal of writ petition filed by the

petitioner/appellant, her case was not considered.Â

Â It is a case in which after dismissal of the writ petition filed by the appellant/petitioner, though she was entitled for verification of documents but said

opportunity was not extended to her on the ground that her writ petition was dismissed. In our opinion for unfilled vacancies another order was passed

by this Court due to reason that writ petition of the petitioner was dismissed prior to 18.03.2018, opportunity was not granted to her for verification of

the documents. Be that as it may, the fact remains that after 12.12.2017, which was the last date fixed for verification of the documents, as per order

of this Court appellant's candidature was not considered to verify the documents for the simple reason that her writ petition was dismissed on

13.12.2017 on the ground that date of verification expired on 12.12.2017.

Â We understand that dismissal of the writ petition on the ground that date fixed for verification by this Court had expired but at the same time we

cannot lose sight of the fact that again when order was passed by learned Single Judge to fill up the remaining unfilled vacancies in the case of Mamta

Bunkar on 17.03.2018 for verification of the documents on 18.04.2018. The appellant/petitioner was entitled for verification of her documents. In our

opinion, it is case of illegal denial of verification of the documents because after 12.12.2017 for the unfilled vacancies under the category of

ST/Woman/Divorcee, another opportunity was granted to the candidates on 18.04.2018, therefore, the respondents ought to have considered the case

of the petitioner and grant her opportunity by verifying her documents and provide her appointment in case the persons with lesser marks than the

appellant/petitioner have been so provided appointment after verifying their documents while again fixing the cutoff date i.e. 18.04.2018.

Â Accordingly, and in view of above, we are of the opinion that there is no force in the contention of the respondents that all the vacancies have been

filled in by appointing the candidates having less percentage than the appellant/petitioner. The petitioner being a divorcee lady belonging to ST

community was very much in the merit under the ST/Woman/Divorcee category is entitled for appointment and the appointment cannot be denied to

her on account of inaction or negligence on the part of advocate.Â

Â Therefore, the instant special appeal is hereby allowed, the judgment of the learned Single Judge dated 13.12.2017 is quashed and set aside. The

respondents are directed to verify the documents of the appellant/petitioner on 11.06.2018 and in case any candidate having secured less marks from

the appellant, have been provided appointment she too be provided appointment on the post of Teacher Grade-III Level-II. No costs.