
(2019) 03 RAJ CK 0164
In the Rajasthan High Court
Case No : Civil Writ No. 3940 Of 2019

Mohammed Farukh Mehar And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 14-03-2019

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2019) 03 RAJ CK 0164

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Naman Mohnot

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioners seeking a direction to the respondents to prepare list of candidates for counselling for engagement as GNM against 3167 posts advertised vide advertisement dated 28/1/2016, district-wise.

It is inter alia indicated in the writ petition that the respondents by advertisement dated 28/1/2016 invited applications from eligible candidates for appointment as GNM for 3167 posts, the petitioners applied in terms of the advertisement, admit cards were issued and result was declared, whereby, the merit list was issued for the entire State. The grievance raised is that the list has not been issued district-wise and now the candidates, whose names appear in the merit list have been called upon by order dated 25/2/2019 (Annex.4) for verification of the documents between 5/3/2019 to 15/3/2019.

Submissions have been made that the action of the respondents in issuing merit list at State level is contrary to the judgment in Rajkumar & Ors. vs. State of Rajasthan & Ors. : AIR 2016 Rajasthan 176, wherein, the Full Bench looking to the objectives of National Rural Health Mission, had upheld district-wise selections.

Based on the said submissions, it has been prayed that the respondents be

directed to issue district-wise list.

I have considered the submissions made by learned counsel for the petitioners and have perused the material available on record.

The advertisement (Annex.1) was issued way back on 28/1/2016. The respondents had indicated 3167 posts of GNM and had nowhere indicated the vacancies district-wise and it was specifically indicated in the advertisement that the merit would be prepared category-wise as various vertical and horizontal reservations were provided. Further, in the clause pertaining to 'basis of selection and for preparation of merit list', it was reiterated that the selections would take place based on on-line examination and 'merit list would be prepared category-wise'. The petitioners were well aware since the issuance of the advertisement that the respondents had neither advertised the posts district-wise nor had called for applications district-wise and that the selections were to be made category-wise at the State level. However, no challenge was laid to the said advertisement. Whereafter, the petitioners participated in the on-line examination for grant of such appointment and once the merit list has been issued in terms of the advertisement, are now seeking to question its validity based on the judgment in the case of Rajkumar (supra).

The judgment in the case of Rajkumar (supra) was delivered on 30/11/2015 and, thereafter the advertisement has been issued on 28/1/2016. If in the estimation of the petitioners the advertisement was contrary to the principles laid down in the case of Rajkumar (supra), for over three years they had the opportunity to question the validity of the advertisement, which has not been questioned by them for all this period. Merely because the result has now been declared, which is in consonance with the stipulations indicated in the advertisement, does not give a fresh cause of action to the petitioners to question the validity on the fundamental aspect of advertisement, which though has been issued at State level, on the ground that same should have been issued at district level.

Once the vacancies have not been advertised district-wise, apparently preference and/or choice from the candidates district-wise has not been sought and on that count also the prayer made by the petitioners in the writ petition cannot be countenanced.

So far as the judgment in the case of Rajkumar (supra) is concerned, the Full Bench while dealing with the issue, laid down that engagement of paramedical staff with preparation of merit at district level does not violate Article 14 of the Constitution and if preference is given on the basis of place of residence and/or local criteria among the equals, then that is not irrational or in violation of Article 14 of the Constitution of India.

The judgment essentially laid down that if such a preference is given, the same would not be irrational or in violation of Article 14 of the Constitution. The judgment did not mandate that on each occasion, the advertisement has to be issued district-wise and/or that under NRHM Scheme preparation of merit list has

to be at district level only.

In view thereof, besides inordinate delay and laches on the part of the petitioners in questioning the validity of the advertisement, even on merit of the challenge laid, there is no substance in the writ petition and the same is, therefore, dismissed.