
(2015) 08 JH CK 0036
In the Jharkhand High Court
Case No : W.P. (S) No. 1768 of 2010

Mohan Bin Prajapati

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-08-2015

Acts Referred:

Citation : (2015) 4 JLJR 68

Hon'ble Judges : Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Arun Kumar Dubey, for the Appellant; Jalisur Rahman, for the Respondent

Final Decision : Dismissed

Judgement

Rongon Mukhopadhyay, J.—In this writ application, a direction has been sought for upon the respondents to cancel the selection and joining of respondent No. 8 as a Para Teacher in New Primary School, Mahuram Tola (Semri) in the District of Palamau and thereupon to select the petitioner as Para Teacher in the said School. The case of the petitioner in a nutshell is that an Aam Sabha was called by the Village Education Committee for selection of Para Teacher in New Primary School, Mahuram Tola (Semri) in the year 2005 but subsequently it was cancelled due to certain irregularities committed at the time of appointment. In 2006 another Aam Sabha was convened and ultimately the petitioner was selected for the post of Para Teacher and an agreement was entered into on 27.12.2007 for a period of one year between the Village Education Committee, Mahuram Tola (Semri) and the petitioner. It is the case of the petitioner that the joining of the petitioner was not accepted and, thereafter, on 23.10.2008 another Aam Sabha was convened pursuant to which the respondent No. 8 was appointed as a Para Teacher.

2. Heard Mr. Arun Kumar Dubey, learned counsel appearing for the petitioner, Mr. Jalisur Rahman, learned J.C. to G.P.-III and Mr. Chanchal Kr. Trivedi, learned counsel appearing on behalf of the respondent No. 8.

3. Mr. Arun Kumar Dubey, learned counsel appearing for the petitioner submits that although the petitioner was selected in 2006 and an agreement was also duly executed but the Village Education Committee (Respondent No. 7) ignoring the genuine selection of the petitioner he was not permitted to join as a Para Teacher, rather on the basis of a purported Aam Sabha dated 23.10.2008 the respondent No. 8 was showered favours by the Village Education Committee. The learned counsel for the petitioner further submits that the respondent No. 8 is a resident of another village and she should have been debarred on account of the said fact. It has further been submitted that the petitioner had obtained higher marks than the respondent No. 8 and since on each and every aspect the petitioner was the only eligible candidate he should have been selected by the Village Education Committee.

4. Mr. Jalisur Rahman, learned J.C. to G.P.-III has submitted that after the selection of Para Teacher is made in the Aam Sabha, such selection is placed before the Block Level Education Committee for its approval as it is the only competent forum for approval of selection of a Para Teacher. It has further been submitted that the Block Level Education Committee has been empowered with the powers to reject the recommendation of the Aam Sabha, or to accept such recommendation or to return back the proposal for directing to hold a fresh Aam Sabha. It has been submitted that the agreement which the petitioner is relying upon is itself a doubtful document as the District Superintendent of Education-cum-District Programme Officer has no role in the selection of a Para Teacher which is specifically assigned to the Village Education Committee.

5. The learned counsel for the State has further submitted that the respondent No. 8 is also a resident of Village Mahuram Tola (Semri) which belies the claim of the petitioner that she is a resident of another village. The name of the respondent No. 8 had been approved by the Block Level Education Committee and since the petitioner has failed to point out any illegality or irregularity the appointment of the respondent No. 8 cannot be doubted.

6. Mr. Chanchal Kr. Trivedi, learned counsel for the respondent No. 8, on the other hand, has submitted that she is a resident of Village Mahuram Tola (Semri) and that after the demise of her husband she was selected by the Aam Sabha and subsequently appointed as a Para Teacher. It has further been submitted that since the School in question is a New Primary School the guidelines lay down that in case of same qualification the Science candidates shall be given preference. However, it has further been indicated in the guidelines governing selection of Para Teacher that in case of equal qualification/eligibility a female candidate shall be given preference. It has thus been submitted that the respondent No. 8 was rightly selected to the post of Para Teacher.

7. The petitioner has basically based his claim upon the agreement which was entered into on 27.12.2007 for appointing him as a Para Teacher for one year. The agreement which was entered into was for a period of one year but the petitioner as per his own saying either did not give his joining or his joining was

not accepted. The respondent No. 8 was appointed as a Para Teacher pursuant to the Aam Sabha held in the year 2008. The petitioner has laid much stress on the fact that the respondent No. 8 is not a resident of Village Mahuram Tola (Semri) and that she is a resident of Village-Kelhar. The respondent No. 8 has submitted a residential certificate issued from the Office of Circle Officer, Patan and the residential certificate goes to show that the respondent No. 8 is a resident of Village Mahuram Tola (Semri) and, therefore, the claim of the petitioner with respect to the respondent No. 8 being a resident of another village is negated. The learned counsel for the petitioner has also submitted that the respondent No. 8 has been appointed as a Para Teacher due to the recommendation of the then M.L.A. but the fact remains that an Aam Sabha was duly held in which the petitioner had also participated and the respondent No. 8 having been found to be better suited as a Para Teacher in view of the guidelines was accordingly selected. The petitioner had subjected himself to the selection process and there is nothing on record to suggest that the petitioner had ever raised any objection with respect to the participation of the respondent No. 8 in the said process. The petitioner having become unsuccessful cannot be permitted to challenge the appointment procedure since he had also taken part in the said procedure. So far as the recommendation of the local M.L.A. is concerned, the same was merely a recommendation and not binding upon the authorities. Since the entire process of selection appears to have been held in a very transparent manner, in such circumstances, it cannot be said that the Village Education Committee or the Block Level Education Committee had been weighed down by such recommendation. Moreover, the conduct of the petitioner upon his selection as a Para Teacher has also to be taken note of inasmuch as even after execution of the agreement the petitioner did not put in his joining. Even if it is accepted that the petitioner was refused joining nothing has been brought on record by the petitioner to suggest that the petitioner had represented before the authorities against refusal of such joining. As would be apparent from the guidelines in case of equal qualification for selection of a Para Teacher in a New Primary School preference has to be given to the female candidate and having exercised such option by the authorities which is in consonance with the norms and guidelines and, therefore, in such circumstances, the petitioner having failed to make out a case for interference by this Court, the present writ application being devoid by any merit, is hereby dismissed.