

(2015) 07 JH CK 0061
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1936 of 2015

Mosrat Ziya Tara	Vs	APPELLANT
The State of Jharkhand and Others		RESPONDENT

Date of Decision : 15-07-2015

Acts Referred:

Citation : AIR 2015 Jhar 179

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Ashok Kumar Yadav, for the Appellant; L.C.N. Sahdeo, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rongon Mukhopadhyay, J.—In this application the petitioner has prayed for quashing the final result for appointment of Jharkhand Judicial Services, Civil Judge (Junior Division) published vide letter dated 13.2.2015 issued under the signature of Secretary, Jharkhand Public Service Commission (JPSC for short), Ranchi. A further direction has been sought for with respect to directing the respondents to conduct enquiry in the illegality committed by the respondents while publishing the result of BC-I category and to further direct the respondents for issuance of appointment letter to the petitioner thereafter.

2. The JPSC after receiving the requisition sent by the Department of Personnel Administrative Reforms and Rajbhasha, Govt. of Jharkhand dated 13.5.2013 started the selection process for appointment of Civil Judge (Junior Division) and in terms thereof Advertisement No. 4 of 2013 was issued by JPSC inviting applications from the eligible candidates for the said post. The petitioner submitted his application being a candidate under BC-I category. The preliminary examination was conducted, but when the results were announced the petitioner did not find her roll number in the list of successful candidates. On enquiry the petitioner could come to know that inspite of securing 72 marks his name was not in the list of successful candidates, although the cut off marks for BC-I

category was only 46. Subsequently however on approaching the JPSC, the petitioner could come to know that she was not selected, as the caste certificate issued to the petitioner was not by the competent authority in terms of the advertisement and therefore the candidature of the petitioner was considered to be under general category. Being aggrieved the petitioner filed a writ application being W.P.(S) No. 2826 of 2014 which was disposed of on 7.7.2014 allowing the writ petition and directing the JPSC to allow the petitioner to appear in the main written examination of Civil Judge (Junior Division). The petitioner appeared in the main examination on 19.7.2014 under BC-I category and on being selected, the petitioner was issued an interview letter to which the petitioner participated. However, on putting in appearance in L.P.A. No. 311 of 2014 which was filed by the JPSC against the order dated 7.7.2014 passed in W.P. (S) No. 2826 of 2014 it was informed by the JPSC that 9 BC-I category candidates had qualified for the post of Civil Judge (Junior Division), but the petitioner had failed to make the grade.

3. Heard Mr. A.K. Yadav, learned counsel for the petitioner, Mr. Sanjay Piprawall, learned counsel for the JPSC and Mr. Kumar Sundaram, learned counsel for the respondent No. 5.

4. It has been submitted by learned counsel for the petitioner that the benefit of reservation shall be extended to a permanent residents of the State of Jharkhand and the caste certificate issued by an officer below the rank of Sub Divisional Officer shall not be considered. Learned counsel for the petitioner has further submitted that the results which were declared by the JPSC was totally illegal and arbitrary only with an intention to debar the petitioner for being selected in the final list of successful candidates. Learned counsel for the petitioner has further submitted that the respondent No. 5 was selected in the preliminary as well as in the main examination on the basis of he being a candidate coming under BC-II category, but subsequently in the final selection list, respondent No. 5 has been shown to be a successful candidate under BC-I category. It has also been submitted that since the respondent No. 5 on the basis of the marks obtained was not eligible for being selected under BC-II category, there was connivance with the authorities for being selected under BC-I category depriving the petitioner from being appointed to the said post. Learned counsel for the petitioner further adds that if the candidature of the respondent No. 5 is illegal and de hors the provisions enumerated in the advertisement as also the reservation criteria, the appointment of the respondent No. 5 can be cancelled and the petitioner would get an opportunity being a genuine BC-I category candidate to be selected to the post of Civil Judge (Junior Division).

5. Mr. Sanjay Piprawal, learned counsel for the respondent No. 4 has submitted that initially the respondent No. 5 had applied as BC-II category candidate and had also appeared in the preliminary as well as in the main examination. However, at the time of verification of the testimonials of the respondent No. 5 it could be detected that due to inadvertence he ticked the column reflecting BC-II

category candidate and when the examination was conducted, the respondent No. 5 had represented the authorities for correction of the caste shown in the column and subsequent thereto respondent No. 5 was allowed to appear in the interview as BC-I category candidate. It has further been submitted that the respondent No. 5 had secured 250 marks and the last selected candidate in BC-I category obtained 239 marks, where as the petitioner secured only 238 marks making her ineligible for being recommended for appointment to the post of Civil Judge (Junior Division).

6. Mr. Kumar Sundaram, learned counsel appearing for the respondent No. 5 has made an initial objection inasmuch as the petitioner has not prayed for a writ of quo warranto although basically challenge has been made to the selection of the respondent No. 5 to the post of Civil Judge (Junior Division). It has further been submitted that the petitioner had secured less marks than the last selected candidate and since the petitioner was herself ineligible for being recommended to the post of Civil Judge (Junior Division), the petitioner cannot make his own claim based on the selection of respondent No. 5. It has therefore been submitted that the writ petition should be dismissed at the threshold.

7. Adverting to the arguments advanced on behalf of the parties, it is not in dispute that the petitioner secured 238 marks which was less than the marks secured by the last selected candidate. The petitioner instead of making out his own case for consideration for appointment to the post of Civil Judge (Junior Division) has concentrated much on the legality/illegality of the selection of respondent No. 5 to the said post. It is also an admitted fact that the selection of the respondent No. 5 is not under challenge in the present writ petition, as such the legality or otherwise of the selection of the respondent No. 5 cannot be decided in this writ petition. Moreover, the petitioner has prayed for quashing of the final result for appointment of Jharkhand Judicial Services Civil Judge (Junior Division) published vide letter dated 13.2.2015, but save and except the purported subsequent change of caste category of the respondent No. 5, neither the petitioner has established her case nor has the petitioner been able to augment the prayer made in the writ petition. The petitioner having secured less marks than the last selected candidate and therefore there being no averment or any whisper with respect to holding of the selection process by the commission or any irregularity having been committed so as to debar the petitioner from being selected, merely by harping upon the selection of respondent No. 5, the petitioner cannot derive any benefit whatsoever.

8. The petitioner has also referred to a judgment in the case of Secretary, A.P. Public Service Commission Vs. B. Swapna and Others, (2005) 2 ESC 246 : (2005) 105 FLR 464 : (2005) 3 JT 468 Supp : (2005) 4 SCC 154 : (2005) SCC(L&S) 452 : (2005) 2 SCR 991 : (2005) 2 SLJ 331, wherein it has been held that once a process of selection starts the prescribed selection criteria cannot be changed. The judgment cited by the learned counsel for the petitioner is again related to the selection of respondent No. 5, illegality of which has already

been held cannot be looked into in this application as no challenge has been made to the selection of respondent No. 5 as a Civil Judge (Junior Division).

9. As a cumulative effect of the discussions made above, I do not find any merit in this writ petition, which is accordingly, dismissed.