

(1998) 07 OHC CK 0019
In the Orissa High Court
Case No : O.J.C. No. 17769 of 1997

Mrs. Prativa Mishra

APPELLANT

Vs

Director of Secondary Education and Others

RESPONDENT

Date of Decision : 25-07-1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 5 Rule 19A

Citation : (1998) 86 CLT 413 : (1998) 2 OLR 309

Hon'ble Judges : Susanta Chatterji, J;D.M. Patnaik, J

Bench : Division Bench

Advocate : Pradeep Mishra-2, for the Appellant; Additional Govt. Advocate (for O.P. Nos. 1 and 2), for the Respondent

Final Decision : Allowed

Judgement

D.M. Patnaik, J.—The petitioner assails the decision of the Managing Committee of the Christ Collegiate School, Cuttack refusing to give her appointment against one of the teaching posts in the school, as communicated through the letter dated 13.11.1997 of the Inspector of Schools, Cuttack Circle, Cuttack under Annexure-4.

2. Copies of the writ petition on the opposite parties 1 and 2, i.e. Director, Secondary Education and Inspector of Schools, Cuttack-I Circle, Cuttack though served on 22.12.1997, they have not filed any counter. Notice under Order 5, Rule 19-A, CPC by registered post to opposite party No. 3, Headmaster of the School having been treated as sufficient and since there has been no appearance on behalf of opposite party No. 3, we proceeded to hear the petition and dispose of the matter at the admission stage.

3. Grievance of the petitioner is that pursuant to an interview held on 15.1.1991 for selection to the post of Assistant Teacher in the Christ Collegiate School, a select list was prepared and two persons were immediately given appointment on 1.10.1991 because of the existing vacancies. Besides, the selection committee

prepared a waiting list which indicated that the petitioner stood at SI. No. 2. It is alleged that although the select list by the duly constituted Selection Committee as per the resolution of the Managing Committee was prepared and the same was valid for one year, i.e. unto 4.10.1992, yet, though there arose vacancy during that one year to which petitioner was to be legitimately appointed in due course, the Managing Committee arbitrarily took a resolution that there shall be a fresh Selection Committee to select candidates for those vacancies, and thus the first select list was rendered non-est.

4. Heard Mr. Pradeep Mishra-2, learned counsel for the petitioner in presence of the learned counsel for the State.

Perused Annexure-1 letter of the Secretary, Christ Collegiate School, Cuttack addressed to the Inspector of Schools, Cuttack-I Circle, Cuttack intimating the resolution of the selection and appointment of two incumbents to the post of Assistant Teachers to fill up immediate vacancies. This further indicates the waiting list which included petitioner at SI. No. 2 of the said waiting list for Arts subject.

5. In absence of any counter by any of the opposite parties particularly the Managing Committee, we accept the averments made in the writ petition that the list prepared by the Selection Committee the petitioner was one of the selected candidates in the panel. We also accept the averments that the list was supposed to be kept valid for one year and further we accept the contention of the petitioner that the vacancy arose within the one year and for which there was no reason to refuse appointment to the petitioner. We have gone through Annexure-4, letter of the Inspector of Schools informing therein that the Managing Committee by their resolution dated 20.5.1991 superseded the earlier resolution dated 14.5.1991 and reconstituted afresh Selection Committee authorising the Committee to select new teachers for appointment thereby superseding the previous waiting list.

6. We find action of the Managing Committee to be arbitrary and whimsical. The impugned order under Annexure-4 does not indicate as to why after appointment of two candidates from the original select list another Selection Committee was constituted while the petitioner was standing at SI. No. 2 of the waiting list for appointment against the existing vacancy. No reason has been assigned for the order under Annexure-4, nor document placed justifying the action of the Managing Committee.

7. Considering this, we allow the writ petition and direct the opposite party No. 3 to immediately consider giving appointment to the petitioner against the existing vacancies, if any, and if there is none she stands for appointment against any immediate future vacancy at the first instance without asking her to face any further test/interview.

S.C. Chatterji, J.

8. I agree.