
(2009) 05 JH CK 0126
In the Jharkhand High Court

Mrs. Sushma Gupta

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-05-2009

Acts Referred:

Citation : (2009) 05 JH CK 0126

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard Shri G.K. Sinha, learned Counsel for the petitioner and JC to Sr. SC-II for the respondent State as also Shri M.S. Mittal, learned Counsel for the respondent No. 5.

2. In this writ application, the petitioner has challenged the appointment of the respondent No. 5 as a Para Teacher in Kanya Middle School, Rehala, Palamau and has prayed for issuance of a direction upon the respondents to appoint her to the post of Para Teacher in the aforesaid school.

3. An advertisement was issued by the State Government on 14th September 2006 inviting applications from the eligible candidates for their appointment as Para Teachers in the Government Primary Schools and Middle Schools. Selection of the suitable candidates was to be made by the concerned Village Education Committee of the village where such school was located. The Village Education Committee, Rehala held its meeting on 16.9.2006 for the purpose of selecting eligible candidates for appointment to the post of Para Teacher in Kanya Middle School, Rehala, Palamau. Altogether seven candidates including the petitioner and the respondent No. 5 had submitted their respective applications along with their certificates in respect of their educational qualifications.

4. The Committee selected one candidate namely, Ankita Singh whose name appears at serial No. 1 of the select list prepared by the Committee. However, though the petitioner and the respondent No. 5 was short listed, but the decision on appointment of either of them, was not taken by the Committee and their

cases were referred to the higher authorities for taking appropriate decision.

5. The contention of the petitioner is that though, her name along with the name of Ankita Singh, was approved at the meeting of the Block Education Committee on 9.10.2006 and they were recommended for their appointment, but much later on 17.4.2007, the petitioner came to learn that the respondent No. 5 was appointed as a Para Teacher and the petitioner's candidature was rejected.

6. Upon such information, the petitioner filed several representations before the concerned authorities for reconsidering her candidature, on the ground that she possesses higher qualification and eligibility, as compared to the respondent No. 5, in terms of the advertisement issued by the State Government.

7. Assailing the appointment of the respondent No. 5 as being illegal, arbitrary and contrary to the eligibility criteria stipulated in the advertisement, learned Counsel for the petitioner raises inter-alia the following grounds.

I. The eligibility criteria as specified in the advertisement dated 14th September 2006 lays down the educational qualifications and the priority to be given to the candidates who possess higher qualifications. Clause-3 of the eligibility criteria, as stated in the advertisement, lays down the minimum qualification of B.Sc and in the event of non-availability of B.Sc candidates, candidates who possess I.Sc degree together with B.Com or B.A., would also be eligible. Clause - 4 of the eligibility criteria lays down that the trained candidates would be given priority. Clause-6 of the eligibility criteria lays down that the priority shall be given to the local residents of the village / Tola where the school is situated and only thereafter, to the residents of the neighbouring village / panchayats. The candidates, who are residents of other districts, shall not be eligible.

II. The comparative chart prepared by the Village Education Committee in respect of the candidates who had submitted their respective applications (Annexure-1) would confirm that the petitioner who has been named at serial No. 7 in the chart, holds an I.Sc degree besides a degree in B.A. and Diploma in Education. The respondent No. 5 named at serial No. 2 of the chart, does not possess any teachers training.

III. The petitioner is admittedly a local resident of village Rehala, whereas the respondent No. 5 is not a local resident.

8. In the counter-affidavit filed on behalf of the District Superintendent of Education, Palamau (Respondent No. 3), it is sought to be explained that both the petitioner and the respondent No. 5 possesses equal qualifications and are residents of Rehala under Bishrampur Block. Since the respondent No. 5 had secured higher marks in the graduation examination than the petitioner, the Block Level Committee and the District Level Committee had selected her for the post of Para-Teacher. It is also contended that the petitioner did not submit any certificate of Diploma in Education along with her application or even at the meeting of the Village Education Committee, Girls Middle School, Rehala,

Palamau, held on 16.9.2006.

9. The Respondent No. 5 has also filed her counter-affidavit and has stated that her selection cannot be disputed as because, even as per the eligibility criteria, she possesses higher qualification than the petitioner in as much as, she is a Graduate in Economic (Hons) and has secured higher marks than the petitioner at the Graduate level examination and she is the resident of the same village Rehala, as affirmed by the residential certificate issued by the Circle Officer, Bishrampur, Palamau. She had also pursued the prescribed course of study for primary teaching through Indira Gandhi National Open University and on completion of the examination held in June 2005, was awarded certificate in Primary Teaching.

10. The comparative chart (Annexure-1) prepared and signed by the members of the Village Education Committee in respect of the candidates who had applied for their selection and appointment, affirms in the remarks column that the petitioner possesses Diploma in Education, whereas such affirmation does not appear in respect of any other candidate including the respondent No. 5. The contention of the respondent No. 3 that the petitioner did not produce certificate of Diploma in Education along with her application or at the meeting of the Village Education Committee, is palpably incorrect and misconceived.

11. The eligibility criteria, as declared in the advertisement dated 14th September 2006, issued by the State Government, prescribes only the minimum educational qualifications. It does not specifically declare that preference would be given to those candidates who secure high percentage of marks, though possessing the same qualification. The eligibility criteria, as indicated above, also prescribes that preference would be given to the trained candidates.

12. As it would appear, the petitioner was the only trained candidate possessing Diploma in Education where the respondent No. 5 did not possess any such qualification on the date when she had submitted her application or on the date when the Village Education Committee held its meeting for selection of suitable candidates.

13. In the counter-affidavit of the respondent No. 3, no reason has been assigned as to why preference was not given to the petitioner over the respondent No. 5 even though the petitioner possessed higher qualification of Diploma in Education, whereas the respondent No. 5 did not possess such qualification. By failing to give preference to the petitioner over other candidates which she had deserved and by insisting upon higher marks criteria for giving preference to the respondent No. 5, though no such higher marks criteria was prescribed or indicated in the eligibility criteria stated in the advertisement, the obvious inference is that the respondents have arbitrarily rejected the candidature of the petitioner without adhering to the Rules prescribed.

14. Under the aforesaid circumstances, the matter is remitted back to the Block Level Committee to reconsider the petitioner's candidature along with that of the

respondent No. 5 on the basis of the educational qualification which they had possessed on the date when the meeting of Village Education Committee was held for selection of the candidates, and after giving both the candidates an opportunity of being heard, the Committee shall record its decision in accordance with the eligibility prescribed in the advertisement. Such decision must be taken by the Block Level Committee within two months from the date of receipt / production of the copy of this order and communicated to the petitioner effectively. With the aforesaid observations, this writ application is disposed of. Let a copy of this order be given to the learned Counsel for the respondent State.