
(2004) 09 JH CK 0062
In the Jharkhand High Court
Case No : W.P.C. No. 4983 of 2004

Pashupati Nath Priyadarshi

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 28-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 4 JCR 296

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : J. Prasad, M.K. Mishra and R.K. Srivastava, for the Appellant; S. Akhtar, SC-II and S. Arun, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner seeks appropriate direction upon the respondents to admit him in the first year of M.B.B.S. Course in any of the Medical College of the Government of Jharkhand in the Session commencing from 2004-2005 and not to reject his claim for admission on the ground of his permanent address shown as outside of the State of Jharkhand.

2. Petitioner's case is that he appeared in the Jharkhand Comomed Entrance Kxamination conducted by the Board and in the preliminary examination he has succeeded. Thereafter, he appeared in the Main Examination which was held on 4.7.2004 which also he succeeded and in the category of Scheduled Caste he ranked second in the merit list. Petitioner was called for counseling on 3.9.2004 before the Counseling Board and submitted all the documents including caste certificate issued by the Sub-divisional Officer, Sadar Bhagalpur and also cast certificate issued by the Deputy Commissioner, Bokaro and Sub-divisional Officer, Bokaro-Petitioner's case is that his father is a permanent employee of Bokaro Steel Plant Bokaro Steel City since 1971 and now he is working as a Junior Manager in Bokaro Steel Plant. Petitioner and his family is permanent resident of Bokaro Steel City since 1971. Petitioner's further case is that he was also born in

the town of Bokaro Steel City in the year 1985 and got his education at Bokaro. In spite of that respondents denied admission on the ground that his permanent address was shown in the State of Bihar (Bhagalpur).

3. A counter affidavit has been filed by respondent No. 2, Controller, Jharkhand Combined Entrance Competitive Examination Board, stating inter alia that petitioner was denied admission on the ground that he is permanent resident of State of Bihar and also for want of requisite certificate in proper format. It is stated that the Board rejected the claim of the petitioner for want of caste certificate in the prescribed proforma as stated in Annexure-3 to the writ application as well as Annexure-A to the counter affidavit.

4. Mr. Saurabh Arun, learned counsel appearing for respondent No. 2 tried to justify the decision of the Board denying admission of the petitioner on the ground that petitioner failed to produce caste certificate in the prescribed proforma mentioned in Annexure-3 to the writ application and Annexure-A to the counter affidavit.

5. Learned counsel further submitted that the candidates claiming reserve category seat on the basis of permanent residence have to furnish certificate in the prescribed form duly published in the newspaper on 3.7.2004 and 31.7.2004.

6. By Annexure-3, to the writ application a candidate was required to furnish original caste certificate in the format as prescribed by the Personnel, Administrative Reforms Department, Govt. of Jharkhand by memo dated 28-5-2004 and the sample of the same has been published in different daily newspaper by the Board on 3.7.2004 and 31.7.2004.

7. Curiously enough, from perusal of Annexure E to the counter affidavit, which is prospectus issued by the respondents for conducting competitive examination, 2004, it appears that in terms of the said prospectus the last date for submission of application was 28.4.2004. The date of preliminary test was 20.5.2004 and the date of main examination fixed was 4.7.2004. As per schedule, preliminary examination was conducted on 30.5.2004 and the main examination was conducted on 4.7.2004. It is, therefore, clear that the format for obtaining caste certificate was published for the candidates in the newspaper only on 3.7.2004 and 31.7.2004. However, a candidate was therefore supposed to furnish caste certificate in proper format which was published after holding preliminary examination.

8. Besides the above, it has been categorically stated by the petitioner that he was born in 1985 at Bokaro Steel City where his father is a permanent employee of Bokaro Steel Plant, Bokaro since 1971. Petitioner also completed his education from Bokaro and for the last 32 years his entire family members are residing in Bokaro Steel City which falls in the State of Jharkhand. Not only the Personnel Department, Bokaro Steel Plant but also the Sub-divisional Officer, Bokaro issued residential certificate in favour of the petitioner showing his residential address in Bokaro. A caste certificate was also issued by the Deputy Commissioner and Sub-

division Officer, Bokaro. All these facts have not been denied or disputed by the respondents in the counter affidavit.

9. In my considered opinion therefore, merely because caste certificate and residential certificate was not in proper format which was published only after holding of preliminary examination, petitioner cannot be denied admission, I further held that. action of the respondents is wholly arbitrary and whimsical. Admittedly, petitioner succeeded in both the preliminary and the main examination and ranked second in the merit list. Such meritorious candidate can not be deprived of from taking admission merely on technical ground.

10. For the reasons aforesaid, this writ application is allowed and the respondents are" directed to forthwith take admission of the petitioner in M.B.B.S. Course in the Session commencing from 2004-2005.