
(2023) 12 JH CK 0032

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1075 Of 2022

Pradip Kumar Mahato And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 11-12-2023

Acts Referred:

Citation : (2023) 12 JH CK 0032

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : Chanchal Jain, Ashwini Bhushan, Krishna Murari

Final Decision : Disposed Of

Judgement

Rajesh Shankar, J

1. The present writ petition has been filed for issuance of direction upon the respondents to consider the candidature of the petitioners and allow them to participate in the counselling process to be conducted for the post of Assistant Teachers in view of the fact that the candidates, who have secured lesser marks than the petitioners, were called for counselling as well as to dispose of the present writ petition in terms with the judgment dated 16.02.2022 passed by this Court in W.P.(S) No. 2378 of 2019 [Paras Nath Mandal Vs. The State of Jharkhand & Ors.] and other analogous cases.

2. Learned counsel for the petitioners submits that the petitioners, who are the para-teachers, had applied in 13 districts under para category. The petitioner Nos. 1 to 19 had applied for the post of Intermediate Trained Teacher as well as Graduate Trained Teacher (Class I to V & Class VI to VIII) and the petitioner Nos. 20 to 23 had applied only for the post of Graduate Trained Teacher (Class VI to VIII). However, they were not called for counselling from any of the districts, though several candidates having lesser marks than the petitioners have been called for counselling.

3. Learned counsel for the petitioners further submits that similar issue came up for consideration before this Court in W.P.(S) No. 2378 of 2019 [Paras Nath Mandal Vs. The State of Jharkhand & Ors.] and other analogous cases, which were allowed vide order dated 16.02.2022 with following directions:

"18. As a cumulative effect of the aforesaid observations, rules, guidelines, legal propositions and judicial pronouncements, I hereby direct the respondents to initiate process of counseling for the present petitioners by way of last opportunity, since they have obtained more marks than the last selected candidates in the merit list. The petitioners shall approach the Deputy Commissioners of the concerned Districts, as early as possible, preferably, within a period of eight weeks from the date of receipt of a copy of this order and thereafter, the Deputy Commissioner shall initiate the process of counseling after giving proper notice to the petitioners by way of Press Communique, advertising the notice in the local newspaper having the wide circulation in the concerned Districts and also by putting the notice on the Notice Board of the Office of concerned District Superintendent of Education and thereafter, the entire process of counseling be completed within a period of further four weeks subject to fulfilling the eligibility criteria and also if the present petitioners have secured more marks than the last selected candidates.

Let the entire process be completed within a period of four months from the date of receipt/ production of a copy of this order.

19. Let it be made clear that no further counselling shall be held for any reasons whatsoever as the advertisement for appointment of these teachers are of 2015 and the aforesaid directions have been issued in peculiar facts and circumstances of the case, which shall be not taken as precedent."

4. The State of Jharkhand, however, preferred L.P.A No. 203 of 2022 [The State of Jharkhand & Ors. Vs. Paras Nath Mandal] and other analogous cases challenging the order dated 16.02.2022 passed in W.P.(S) No. 2378 of 2019 and other analogous cases, which were dismissed by learned Division Bench vide order dated 15.09.2023 with following direction to the State of Jharkhand:

"57. This Court, on entirety of facts and circumstances, is of the view that the order passed by learned Single Judge needs no interference by this Court and the direction so passed by learned Single Judge needs no interference by this Court and is required to be complied with at an earliest as the vacancies is of the year 2015 and it must be put to logical end without snatching right of candidates, if they are otherwise eligible. Therefore, the appellants-State are hereby directed to:

I. Initiate the process of counseling forthwith for the present petitioners by way of last opportunity as it is alleged they have obtained more marks than the last selected candidates in the merit list in the respective districts.

II. The petitioners shall approach the Deputy Commissioners of the concerned

Districts, as early as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order.

III. However, in the meantime, the Deputy Commissioner of the concerned district shall give proper notice to the petitioners by way of Press Communiqué, advertising the notice in the local newspaper having the wide circulation in the concerned Districts and also by putting the notice on the Notice Board of the Office of concerned District Superintendent of Education.

IV. This Court hopes and trusts that the entire process of counseling will be completed within a period of further eight weeks subject to fulfilling the eligibility criteria and also if the present petitioners have secured more marks than the last selected candidates.

V. It is made clear that the entire process of selection shall be made strictly in accordance with relevant rules/regulations and judicial pronouncements, as mentioned above, within a period of four months from the date of receipt/production of copy of this order.

VI. Let it be made clear that no further counselling shall be held for any reasons whatsoever as the advertisement for appointment of these teachers are of 2015 and the aforesaid directions have been issued in peculiar facts and circumstances of the case, which shall be not taken as precedent."

5. It is also submitted that subsequent to disposal of the aforesaid L.P.As, a co-ordinate Bench of this Court vide order dated 19.09.2023 has disposed of another writ petition i.e. W.P.(S) No. 3406 of 2021 in following terms:

"5. In view of the fair submissions made by the learned Counsel for the parties, this writ petition is being disposed of in terms of the order dated 16.02.2022, passed by this Court in W.P.(S). No. 2378 of 2019 (Paras Nath Mandal Vs. the State of Jharkhand & Ors.) and other analogous cases as well as LPA No. 203 of 2022 and if the cases of the present petitioners are found to be same and similar to the cases of the petitioners in W.P.(S). No. 2378 of 2019 (Paras Nath Mandal Vs. the State of Jharkhand & Ors.) and other analogous cases, the present petitioner is also entitled for the same benefits.

6. Accordingly, I hereby direct the respondents-authorities to verify the factual aspects/issues involved in the present writ petition vis. a vis. factual aspects/issues involved in W.P.(S). No. 2378 of 2019 (Paras Nath Mandal Vs. the State of Jharkhand & Ors.) and other analogous cases, and if the facts/issues involved in the present writ petition is found to be similar to the aforementioned writ petition, the same benefits may be extended to the present petitioner also in accordance with law, within a period of 8 weeks from the date of receipt/production of a copy of this order."

6. Learned counsel for the petitioners further submits that batch of writ petitions led by W.P.(S) No. 1233 of 2022 (Dinesh Kumar Yadav Vs. State of Jharkhand & Ors.) filed by the similarly situated persons have also been disposed of by this

Court vide order dated 17.10.2023 in terms with the direction as contained in the order dated 15.09.2023 passed in L.P.A. No. 203 of 2022 and other analogous cases.

7. It is thus submitted by learned counsel for the petitioners that the present writ petition may also be disposed of in terms with the order dated 16.02.2022 passed by this Court in W.P.(S) No. 2378 of 2019 and other analogous cases as well as the order dated 15.09.2023 passed by learned Division Bench in the aforesaid L.P.As.

8. A counter affidavit has been filed on behalf of the respondent No.3 primarily mentioning the earlier rounds of litigations including the order dated 02.02.2017 passed in W.P.(S) No. 19 of 2016 along with W.P.(S) Nos. 32 of 2016, 146 of 2016, 334 of 2016 as well as the orders dated 11.05.2018 passed in L.P.A. No. 168 of 2017 and L.P.A. No. 186 of 2017 and other analogous cases. It has further been stated that several candidates were allowed to participate in the counselling as per the order passed in W.P.(S) No. 19 of 2016 which was affirmed in L.P.A. No. 168 of 2017. However, nothing has been stated with respect to the petitioners' aforesaid contentions raised in the writ petition that they were not called for counselling from any of the 13 districts from which they had applied under Para category, though several candidates having lesser marks than the petitioners were called for counselling.

9. On putting question to learned State counsel as to whether in pursuance of the order passed in L.P.A. No. 203 of 2022 and other analogous cases, any press communique with respect to counselling for appointment of the teachers has been published, it has been replied that no such publication has yet been made in that regard.

10. Having heard learned counsel for the parties and considering the facts and circumstance of the case, the present writ petition is disposed of in terms with the direction as contained in the order dated 15.09.2023 passed in L.P.A No. 203 of 2022 and other analogous cases. The respective authorities are accordingly directed to verify the factual aspect involved in the present writ petition vis-a-vis the factual aspect/issues involved in W.P.(S) No. 2378 of 2019 [Paras Nath Mandal Vs. The State of Jharkhand & Ors.] and other analogous cases as well as L.P.A No. 203 of 2022 [The State of Jharkhand & Ors. Vs. Paras Nath Mandal] and other analogous cases. If on verification/scrutiny, the fact/issue involved in the present writ petition is found to be similar to the said batch of writ petitions as well as L.P.As, the same benefit will be extended to the similarly situated petitioners while following the direction as contained in the order dated 15.09.2023 passed by learned Division Bench in L.P.A No. 203 of 2022 and other analogous cases.