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**(2013) 01 JH CK 0049**  
**In the Jharkhand High Court**  
**Case No : W.P. (S) No. 5071 of 2004**

Pratima Sen and Patamuni Baski

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision :** 12-01-2013

**Acts Referred:**

**Citation :** (2013) 01 JH CK 0049

**Hon'ble Judges :** Aparesh Kumar Singh, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Aparesh Kumar Singh, J.—By this writ petition, the petitioners have sought for cancellation of appointment of respondent nos. 5 and 6, who have been appointed on the post of Para Teacher in Primary School, Panjania, District-Jamtara. The petitioners have also sought for directing upon the respondents to consider their case for appointment on the post of Para Teacher in Primary School, Panjania, District-Jamtara. According to the petitioner, as per the scheme of the government under the Jharkhand Education Project, advertisement were issued, which is contained as Annexure-1 whereunder the appointment of Para Teacher in Primary School, Panjania, District Jamtara were conducted as per the teacher student ratio 40:1.

2. The petitioner no. 1 claims herself to have passed Madhyamic Pariksha (Secondary Examination) in the year 1996 in support of which she has annexed the mark sheet and certificates as Annexure-2 and 2/A. Petitioner no. 2 has passed her Matriculation Examination in the year 1994 and Intermediate Examination in the year 1997, photocopies of the mark sheets are annexed as Annexure-3 and 3/A.

3. According to the petitioner no. 1, she belongs to OBC female category while the petitioner no. 2 belongs to ST female category, caste certificates are annexed as Annexure-4 and 4/A. The petitioners are aggrieved as respondents have

appointed respondent nos. 5 and 6 on the post of Para Teacher ignoring the claim of these petitioners and also overlooking conditions prescribed in the advertisement whereunder first preference is to be given to female candidate respectively in the order of Scheduled Tribe, Scheduled Caste, OBC and General category before making appointment from the second preference category of male in the same order.

4. Learned counsel for the petitioners has assailed the impugned action of the respondents on the ground that their candidature were never considered when the Village Education Committee meeting was convened for which he relies upon the minutes of the committee annexed as annexure-A to the counter-affidavit of the private respondent as well as the respondent-State, held on 26.06.2004. Learned counsel for the petitioners has also assailed the ground made in the counter affidavit whereby on the one hand respondents have claimed that they never appeared before the said committee on the other hand it has been stated that petitioner no. 2 is married at village Amoi in Mihijam, which is about 26 Kilometers from the said school in the village Panjania although she belongs to the Scheduled Tribe category. According to the petitioner, the respondents have also ignored the claim of the petitioner no. 1 being of female category from OBC category by stating that she was not considered as she does not belong to ST/SC category while respondent no. 5 and 6 being male SC and ST candidates have been appointed.

5. The respondents-State and private respondents have appeared and filed their counter affidavits. It is the case of the respondent-State that in the meeting held on 26.06.2004, three persons namely Sushila Soren being Scheduled Tribe female candidate, Subhas Mirdha, Scheduled Caste male candidate and Bisheshwar Kisku, Scheduled Tribe male candidate have been selected unanimously by Village Education Committee. According to them, as per the advertisement, first preference category was ST female candidate. Petitioner no. 2, Patamuni Baski was married at village Amoi, which is at a distance of 26 kilometers from the village-Panjania where the school is situated while the other selected candidate namely Sushila Soren, being ST female candidate and belonging to the same village, has been appointed. On the other hand the respondents have also supported the appointment of the respondent nos. 5 and 6 namely Bisheshwar Kisku and Subhas Mirdha, who belong to Scheduled Tribe and Scheduled Caste male category, as also permissible under the advertisement contained at Annexure-1. It is the contention of the respondents that petitioner no. 1 belongs to OBC female category while the post has been earmarked for first preference from SC/ST female candidate, has been filled up by ST female candidate. It is further submitted that in the subsequent meeting, which was held by the respondents-Village Education Committee to consider the allegation made by the petitioners in which again the appointment of these three candidates including respondent nos. 5 and 6 were affirmed as they fulfilled the necessary qualification and also belonged to SC/ST category. However, regarding the case of the petitioner nos. 2, it was found that she has been married in

village Amoi, which is 26 kilometers away from Panjania village, where the school is situated and also under the police station Mihijam. Regarding the candidature of the petitioner no. 1, it is stated that she was a candidate, who was found to be purely Bengali speaking and not able to speak even Hindi. In the Primary School, Panjania, Hindi language is taught and not Bengali. In these circumstances, the respondent-State and the private respondents sought to justify the appointment of the private respondent nos. 5 and 6 on the ground that these two petitioners did not fulfill the necessary eligibility criteria as per Annexure-1 and other three candidates named herein above have the same qualification and also belong to the SC/ST category.

6. I have heard learned counsel for the parties and gone through the relevant materials on record. As per the advertisement, first preference is to be given to the female candidate belonging in the order of ST/SC/OBC/General and thereafter second preference is given to the male candidate belonging in the same order. Three candidates were selected where first preference has been given to the female ST candidate namely Sushila Soren as the petitioner no. 2 was found to be married at village-Amoi, which is 26 kilometers away from the primary school, Panjania, therefore, her candidature was not accepted as she would find it difficult to perform regular duty from such a distance. On the other hand, the OBC candidate, petitioner no. 1 was found to be purely Bengali speaking and the subject taught in the school is Hindi and not Bengali. In these circumstances, the candidates i.e. ST male and SC male being respondent nos. 5 and 6 were considered by the Village Education Committee and appointed. From perusal of the aforesaid documents and the advertisement including the minutes of the Village Education Committee held on 26.06.2004 and 15.10.2004, it appears that the appointment made by the Village Education Committee of the respondent nos. 5 and 6 are not in teeth of the advertisement and fulfill the said criteria of SC-ST candidate while the petitioners have not been considered because of the reasons indicated hereinabove by the Village Education Committee, which cannot be found fault with. In these circumstances, no relief can be granted to the petitioners. Accordingly, this writ petition is dismissed.