
(2010) 02 JH CK 0084
In the Jharkhand High Court

Pravin Kumar Sinha

APPELLANT

Vs

Jharkhand Vidhan Sabha, The Hon'ble Speaker, Jharkhand
Vidhan Sabha, The Secretary, Jharkhand Vidhan Sabha and
The Central Bureau of Investigation

RESPONDENT

Date of Decision : 01-02-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 02 JH CK 0084

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present petition has been preferred against non-selection of the petitioner by the respondents on the post of Personal Assistant in the Vidhan Sabha, Ranchi.

2. Learned Counsel for the petitioner, has submitted that the petitioner applied for the post of Personal Assistant, in pursuance of Public Advertisement, dated 28th November, 2005 (Annexure-1). Thereafter, the respondents took written test in which the petitioner appeared and thereafter, the petitioner was not called for Personal Interview and several persons have been appointed on the Post of Personal Assistant. It is vehemently submitted by learned Counsel for the petitioner that several times, certain informations were sought for, about the selection of the petitioner, but, nothing was supplied and, therefore, an application was preferred under the Right to Information Act, 2005, whereby, the petitioner came to know that he has acquired 27 marks in the Written Test and the respondents have called for the Interview, the candidates having minimum 38 marks.

3. It is also submitted by learned Counsel for the petitioner that assessment, made by the respondents that petitioner is also required to be reassessed. Marks, given to the petitioner are much lesser. Even the result of the written

examination has not been published, by the respondents and, therefore, the whole selection process for the Post of Personal Assistant deserves to be quashed and set aside.

4. Learned Counsel for the respondents has submitted that the petitioner has secured much lesser marks in the Written Test i.e. only 27 marks and the respondents have called for the Interview, the candidates who has secured minimum 38 marks. Thus, the petitioner is not even qualified for the Interview and, therefore, he has not been selected for the Post of Personal Assistant. It is also submitted by Learned Counsel for the State that the marks given, in the Written Test to the petitioner cannot be reassessed by this Court, in exercise of powers, vested under Article 226 of the Constitution of India because it is the subjective satisfaction of the examiner and lastly, it is submitted that those who have been selected as Personal Assistant, they have all been appointed on the said post and they are working as Personal Assistant, as on today and therefore, the petition deserves to be dismissed.

5. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case, I see no reason to entertain this writ petition mainly for the following facts and reasons:

(i) the petitioner has applied for the post of Personal Assistant, in pursuance of Public Advertisement, dated 28th November, 2005, (Annexure-1 to the memo of petition) in the Vidhan Sabha, State of Jharkhand, Ranchi, Written Test was taken from all the candidates, wherein, the petitioner has secured 27 marks only.

(ii) it also appears from the counter-affidavit that the respondents have called for Personal Interview to certain candidates and cut of marks is 38 and, therefore, the petitioner is not even qualified for the Interview and after Interview, some of the candidates were selected. Thus, those who have cleared Written Test as well as Interview have been selected for the Post of Personal Assistant, Vidhan Sabha, Ranchi and as the petitioner could not secure 38 marks, the petitioner has not been called for, even Interview.

(iii) It is vehemently contended by learned Counsel for the petitioner that the method of assessment of the petitioner's written examination is absolutely arbitrary. Counsel has argued out the case, in detail, stating as to how many marks are to be deducted for how many mistakes and whether the mistakes, committed by the petitioner, in dictation and marks deducted for every mistake is correct or not?

(iv) Be that as it may, this Court is not going to reassess the written test paper of the present petitioner. The petitioner has already been given, by the examiner as 27 marks. It is subjective satisfaction of the examiner of the paper. In exercise of powers, vested under Article 226 of the Constitution of India, this Court will not sit in appeal upon the assessment of the marks obtained by the petitioner in the written test.

(v) it appears from the facts of the case that last candidate was called for Interview, who has secured 38 marks in the written test and the petitioner has secured 27 marks and, therefore, he was not called for Interview Test. The selection is based upon the Interview also. In view of the aforesaid submission, the petitioner could not be appointed as Personal Assistant in Vidhan Sabha, Ranch).

(vi) learned Counsel for the petitioner has submitted that the result of the written test has not been declared by the respondents and, therefore, selection process of the Personal Assistant deserves to be quashed and set aside. This contention is also not accepted by this Court mainly for the reason that there is no such statutory requirement for publication of the marks of written test when the selection process is consisting of written test as well as Interview. As the petitioner has not obtained 38 marks in Written Test, he has not been called for Interview. It ought to be kept in mind that this is not an examination like Bachelor of Arts, Bachelor of Commerce, Bachelor of Science or Graduation type of examination where marks is prescribed for passing of the examination with certain percentage. In some degree examination, it is 50%, in some degree examination, it may be 40% and in some examination, it may be 38%, but, in competitive examination for the appointment on the public post, there is nothing like such passing standards. All the candidates, who have appeared in the examination, after giving them marks, will be arranged in the seriatim and first few will be selected directly, if a 2nd screening test is required, they will be called for 2nd Screening Test like Interview or physical test etc. Thus, first few candidates will be selected for the Interview or for physical test if 2nd type of screening is required. Thereafter again they will be arranged in seriatim, as per marks obtained in the 2nd phase. Looking to the vacancy, first few candidates will be appointed on the post first. There is nothing like a passing standards like B.A., B.Sc., B.Com. Examinations and, therefore, there is no need even under rules to publish a result of written test for the Post of Personal Assistant, to be appointed, at the Vidhan Sabha. This contention raised by, learned Counsel for the petitioner is not helpful to the petitioner.

6. As a cumulative effect of the aforesaid facts and reasons, I see no reason to entertain this writ petition. There is no substance in this writ petition and hence, the same is hereby dismissed.