
(2019) 06 JH CK 0009
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5575 Of 2009

Pushpa Kumari

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 18-06-2019

Acts Referred:

Citation : (2019) 06 JH CK 0009

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : V.K. Tiwary, Vishal Kumar Singh

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. The petitioner has preferred this writ petition for a direction upon the respondents to issue appointment letter in favour of the petitioner on the post of Assistant Teacher as she has been declared successful in the examination held by the Jharkhand Public Service Commission for that post. Pursuant to an advertisement issued by the Jharkhand Public Service Commission, the petitioner applied for appointment on the post of Assistant Teacher in the State of Jharkhand
2. The petitioner belongs to O.B.C. category and in terms of the advertisement she produced the caste certificate issued on 27.1.1994 by the Block Development Officer. The result of the examination was published on 15.8.2005 and the petitioner was declared successful in the said examination, but the petitioner has not received any appointment letter and she filed the representations before the competent authority for issuance of the appointment letter in her favour. Subsequently, vide notification No. 7072 dated 30.12.2003,

issued under the seal and signature of the Secretary, Person-nel, Administrative Reforms and Rajbhasha Department, Government of Jharkhand, Ranchi, it has been clarified that Sub Divisional Officer is the competent authority to issue caste certificate. The petitioner also produced the caste certificate issued by the Sub Divisional Officer, Dhanbad on 1.9.2006 after she was declared successful in the said examination. On 09.5.2007, District Superintendent of Education, Bokaro wrote a letter, be-ing letter No. 855, addressed to the Director, Primary Education, Department of Human Resources Development, Government of Jharkhand, Ranchi stating therein that since the caste certificate issued in favour of the petitioner is issued by the Block Development Officer, Tundi, District Dhanbad, and the same was submitted by the petitioner at the time of filling of her application form, therefore, a clarification/direction has been asked as to whether the caste certificate of the petitioner issued by the Block Development Officer, Tundi, Dhanbad is valid or not. The Director, Primary education, vide his letter no. 2474 dated 4.12.2007, clarified that since the earlier caste certificate, submitted by the petitioner at the time of filling of the application form was issued by the Block Development Officer, Tundi and further she has also submitted that caste certificate issued by the Sub Divisional Officer, Dhanbad, thus there is no ambiguity in issuing appointment letter in favour of the petitioner and a clear direction has been issued to the District Superintendent of Education, Bokaro to immediately issue appointment letter in favour of the petitioner. The Director opined that since there is no contradiction in the certificate issued by the B.D.O. and the S.D.O., her appointment process may be carried out. In the meantime the petitioner filed an application under the Right to Information Act and sought to know as to how many persons have been appointed on the basis of caste certificate issued by the Block Development Officer. Vide letter dated 24.1.2008, the petitioner has been informed that five persons were appointed on the basis of the caste certificate issued by the Block Development Officer. Not only this, the Secretary, Human Resources Development Department, Government of Jharkhand, on 13.2.2009, also issued a clear direction to issue the appointment letter in favour of the petitioner as there is no discrepancy in the caste certificates produced by the petitioner. Said letter is Annexure 8 to the writ petition.

3. On the other hand, learned counsel appearing for the State submits that the appointment as Assistant Teacher is made only after approval from the

District Education Establishment Committee, headed by the Deputy Commissioner, Bokaro. The Committee did not approve the recommendation of

Jharkhand Public Service Commission, Ranchi for the appointment of the petitioner as Assistant Teacher on the ground that she had not submitted

caste certificate issued by Sub Divisional Officer along with the application form which was pre condition as per the terms and conditions of the

advertisement for the post of Assistant Teacher as well as the rules and regulations framed by the State Government in this regard.

4. On perusal of the counter affidavit, this Court finds that there is clear cut admission by the person, who has sworn the affidavit on behalf of the

respondent No. 4 that the Director had opined that the petitioner may be appointed as Assistant Teacher. In paragraph 11 of the counter affidavit, it

has been stated that a letter has again been sent to the Director, Primary Education, Ranchi afresh vide letter no. 523 dated 20.07.2009 for giving

clear-cut guidance in the matter of appointment of the petitioner as Assistant Teacher and no sooner the instruction is received from the Government;

immediate action shall be ensured with full transparency without bias and prejudice.

5. Having heard counsel appearing for the parties, this Court finds that even on the basis of the certificate issued by the Block Development Officer,

five persons have already been appointed by the respondents and the petitioner has not been issued appointment letter inspite of the fact that she has

produced caste certificate issued by the Sub Divisional Officer also in terms of the subsequent order.

It appears that the Director, Primary Education, Government of Jharkhand as well as the Secretary, Human Resources Development Department,

Government of Jharkhand opined that there is no discrepancy in the caste certificates, therefore, she can be appointed as Assistant Teacher.

In the counter affidavit the respondents, on one hand, have admitted that the Director, Primary Education, Govt. of Jharkhand, has opined that the

petitioner may be appointed as Assistant Teacher and on the other, in subsequent paragraphs, they further wrote that they have again sought

guidelines from the Director as to whether the petitioner should be appointed as the Assistant Teacher or not and thereafter, it has been stated that

sooner or later guidelines will be received from the Government and they will proceed with the appointment process. The stand taken by the respondent is contradictory itself and this Court finds that there is clear-cut direction of the higher authorities with respect to the caste certificate of the petitioner and moreover, others have been appointed considering the caste certificate issued by the Block Development Officer, whereas, the petitioner has produced the certificate issued by the Sub Divisional Officer also apart from the earlier caste certificate issued by the Block Development Officer. Moreover, in the advertisement, it was not mentioned that the caste certificate should be issued by the Sub Divisional Officer.

In view of these, this Court fail to understand as to where the im-pediment is in issuing the appointment letter in favour of the petitioner. It also transpires that she has represented before the authority in the year 2007 for issuing the appointment letter and the authorities are sitting tight over the matter since the year 2007.

This is a clear case of arbitrariness on behalf of the respondents, who, on one hand, is not passing any order on the representation and on the other, taking a stand that sooner or later guidelines will be received from the higher authorities and they will proceed for appointment of the petitioner.

6. In the facts and circumstances of this case, the respondent author-ities are directed to issue appointment letter in favour of the petitioner within six weeks from the date of receipt/production of a copy of this order.

7. With above observation and direction, writ petition is allowed.