
(2002) 04 RAJ CK 0079

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2242 of 1998

Rajendra Kumar Sharma and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-04-2002

Acts Referred:

Citation : (2003) 2 RLW 792 : (2002) 3 WLC 631

Hon'ble Judges : Gyan Sudha Mishra, J

Bench : Single Bench

Advocate : S.P. Sharma, for the Appellant; Sanjay Tyagi, for the Respondent

Final Decision : Allowed

Judgement

Misra, J.—All the petitioners-herein, who are graduates in Science with B.Sc. Degree alongwith Diploma in Investigative Bio Technology of Lab Technician obtained by them from the University of Rajasthan, have a common cause to challenge the action of the respondents by which they have not been considered for appointment on the post of Lab Technician in Medical and Health Department. The ground of denial is that the petitioners are not duly qualified since the Diploma of Lab Technician has not been obtained by them from Maharshi Dayanand Saraswati (for short "MDS") University Ajmer but they have obtained the said Diploma from the University of Rajasthan.

2. The controversy therefore which exists in this writ petition is whether the respondents could refuse to consider the petitioners' eligibility for the post of Lab Technician merely on the ground that they do not fulfill essential qualification for the post of Lab Technician since the Diploma in Investigative Bio Technology has been obtained by them from the University of Rajasthan and not from the M.D.S. University. The detailed fact of the case are not essential to relate in this case as it is an admitted position that the petitioners are eligible in all other respects for the post of Lab Technician except that their qualification of Diploma in Investigative Bio Technology was questioned by the respondents-authorities

and they were deprived of the opportunities to participate in the selection process for the post of Lab Technician. The petitioners obviously felt aggrieved with the action of the respondents and therefore they have filed this writ petition against the respondents action as illegal and unjustified.

3. When the counsel for the respondents was questioned as to why the petitioners have been denied their right to participate in the selection process, it was stated that the Diploma in Investigative Bio Technology obtained by the petitioners from the University of Rajasthan has not been recognized by the State Government and hence they could not have been considered for appointment to the post. However, it could not be disputed that the course of Diploma in Lab Technician started in 1993 by the University of Rajasthan with full concurrence of State Government after complying the due legal formalities and an Ordinance was also passed by the Governor of Rajasthan for conducting the aforesaid Course and thereafter the teaching commenced in the University of Rajasthan after which several batches of students passed out this Course and obtained the Diploma. It is thus obvious that the teaching of this Course by the University of Rajasthan has been granted full recognition by the University of Rajasthan which is an autonomous body and this qualification has been duly recognised by the University which has a legal status and cannot be questioned by any authority in India including Government of Rajasthan. Therefore the action of the respondents- State, directing the concerned authorities not to consider the candidature of the petitioners, even though they are duly qualified, having obtained the Diploma from University of Rajasthan which qualification is not in any way inferior to the MDS University Ajmer, is clearly an arbitrary and illegal action of the respondents which has no legal sanctity and cannot be justified by any legal parameters. It is common knowledge that the University of Rajasthan is a duly recognised University-also recognised by the University Grants Commission wherein the Course of Investigative Bio Technology was started after an ordinance was passed in this regard, it is hard to digest the fact that this could be later sought to be derecognised by any authorities of the State of Rajasthan itself. If, therefore, there is any order in existence directing the respondents-appointing authority-Director Medical and Health to the effect that they should not consider the petitioner for appointment on the post of Lab Technician merely because they have acquired the qualification from the University of Rajasthan, that shall be treated as null and void having no legal sanctity. The Director Medical and Health therefore will not be bound by such order for the reasons stated hereinbefore.

4. It was pointed out by the counsel for the petitioners that this Court by an interim order passed on 20th May 1998 directed the post of Lab Technician to be kept vacant and the respondent No. 3 has also directed to permit the petitioners to appear in the interview for the post of Lab Technician. The petitioners in pursuance of this order appeared in the interview on 8th February 1999 but the result had been kept in sealed cover during pendency of this writ petition.

5. Since the controversy regarding the qualification of the petitioner about their Diploma of Investigative Bio Technology is now resolved since no order passed by the State Government derecognising their qualification is fit to be sustained, the respondents are directed to expeditiously declare the results of the interview in which the petitioners had appeared for the post. It goes without saying that in case the petitioners have obtained qualifying marks in the interview for the post, the order of appointment will be issued in their favour and in case they have not qualified, they would be eligible in future to apply for the post as no order questioning the Diploma of Investigative Bio Technology obtained by them from the University of Rajasthan shall be allowed to be questioned by any authority.

6. The writ petition accordingly stands allowed without costs.