

(1992) 07 RAJ CK 0012

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1114 of 1992

Ramu Ram Choudhary

APPELLANT

Vs

The State of Raj. and Others

RESPONDENT

Date of Decision : 21-07-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 RLW 88 : (1993) 1 WLC 622 : (1992) 2 WLN 513

Hon'ble Judges : Jasraj Chopra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jas Raj Chopra, J.

1.The case of the petitioner is that he passed his B.A. Examinations in the year 1991 from Ajmer University and thereafter, he appeared in the Pre Teacher Education Test (for short "the PTET") 1991-92 held by Mohanlal Sukhadiya University, Udaipur. He cleared that examination and has obtained 299 marks. His contention is that as per explanation (7) added to Rule 5 of the Rules for Admission to B.Ed Shiksha Shastri Courses, contained in General Guide Lines of Pre Teacher Education Test, 1991, there is a proviso that three choices for Teacher Education Institution (T.E.I.) of Rajasthan will be given by each candidate in order of preference.

2. It was contended by the petitioner that he gave his choice for three places i.e. Jodhpur, Doongarpur, and Udaipur in order of preference. According to him, although in Jodhpur, the persons who have obtained minimum marks of 311 have been given admission but in Doongarpur and Udaipur, persons having secured 296 and 294 marks have been given admission. It was, therefore, argued by him that the persons who got lessor marks than him have been admitted in Udaipur and Doongarpur Districts and, therefore, he should have also been given admission. He has submitted that the persons who got 287 marks in

Banswara District and the persons who got 286 marks in Jalore and Chittorgarh Districts have also been admitted in B.Ed. course and, therefore, he cannot be denied admission in B.Ed, course.

3. An interim order passed by this Court on 24.3.1992 was to the effect:

Meanwhile, petitioner shall be given provisional admission in B.Ed. Course at Doongarpur or at Udaipur in case any candidate security lessor marks than the petitioner has been admitted.

An application under Article 226(3) of the Constitution was filed on behalf of respondent No. 2 on 25.5.1992 and consequently, both the parties requested that the case may be listed for final disposal and hence, this case has been heard for final disposal.

4. No formal reply to the writ petition has been filed on behalf of the respondents.

5. I have heard Mr. R.N. Munshi, the learned Counsel appearing for the petitioner, Mr. S.K. Vyas, the learned Addl. Govt. Advocate and Mr. D.R. Bhandari, the learned Counsel for the respondent. I have carefully gone through the record of the case.

6. The contention of Mr.R.N. Munshi, the learned Counsel appearing for the petitioner is that explanation (5) added to Rule 5 of the Rules concerns the eligibility of a candidate who appear in the PTET examination. It has no concern with the admission of a candidate in B.Ed. Course and, therefore, case a candidate appears in the PTET examination and clears that examination and persons getting lessor marks than him have been given admission then he should be given admission in B.Ed, course in the cities which have been given by him in his choice as per explanation (7) to Rule 5 of the Rules. It was further contended by Mr. R.N. Munshi, the learned Counsel for the petitioner that when persons getting 296 and 294 marks in Doongarpur and Udaipur districts respectively have been given admission than the petitioner who has secured 299 marks cannot be denied admission in B.Ed, course. His further contention is that explanation (7) added to Rule 5 of the Rules is not subject to the explanation (5) added to Rule 5 of the Rules. Both are independent to each other and, therefore, once a candidate clears PTET examination than out of the three places for which he has secure lessor marks than him has been admitted than he should also be admitted to B.Ed, course. If was also submitted by him in the alternative that if the seats are not lying vacant at the places for which he has given his choice, than he may be given admission in any other college, where the seats are lying vacant.

7. These submissions of Mr. R.N. Munshi, the learned Counsel appearing for the petitioner have been seriously opposed by Mr. R.D. Bhandari, the learned Counsel appearing for respondent.

8. The contention of Mr. R.D. Bhandari, the learned Counsel appearing for respondent No. 2 is that explanation (5) added to Rule 5 of the Rules determines

eligibility of a candidate for admission to the B.Ed, course. It does not determine the eligibility of a candidate for appearing in the PTET examination and it squarely governs explanation (7) of Rule 5 of the Rules. Unless a candidate gets his merit in his home district, he cannot get admission in any of the Colleges of his choice for admission in B. Ed. course. If he gets merit as per explanation (5) to Rule 5 of the Rules than he can be given admission as per his choice but his eligibility will have to be determined on the basis of his home district. If somebody getting lessor marks has been admitted an any other place, that will not help the case of the petitioner because the merit of that district is decided according to the seats available in that district. If any seat falls vacant at a place other than the home district of a candidate than the seat will go to the next lower man in merit of that district and that cannot be allowed to be filled by a man of another district where he does not figure in the merit list.

9. I have considered the rival submissions made at the bar. Rule 2 of the Rules for admission to B.Ed/Shiksha Shastri Courses in the shape of General Guide lines for Pre Teacher Education Test (PTET), 1991 provides that to a qualify the Pre Teacher Education Test (PTET), the candidate shall be required to secure at least 40% marks in the test. There will be no provision of grace marks. Moreover, his/her name should figure in the merit list, within the total number of seats available in different categories. (Emphasis is mine).Rule 5 (a) of the Rules provides for reservation for certain categories of candidates. Explanation (5) to Rule 5 provides that for deciding the candidature of a person from a district of Rajasthan, the only consideration will be the district from where the candidate has passed Secondary School Examination. The validity of explanation (5) to Rule 5 of the Rules has been challenged before this Court in Dharmendra Kumar Bharat v. the State of Rajasthan and 7 Ors. similar special appeals (D.B. Civil Special Appeal No. 100 of 1991, decided on May 23, 1991) and a Division Bench of this Court has held that this explanation (5) to Rule 5 of the Rules is valid. It was further held that the principle of allotting the district to a candidate on the basis of his passing secondary school examination from a particular district cannot be held to be arbitrary or unreasonable and therefore, no departure from the decision in Mahavir Pd. Jangid v. State of Raj. and Anr. (D.B. Civil Writ pet. No. 2345 of 1987 & 214 other writ petition decided on 23.11.1987) is possible under these circumstances. Thus, the candidature of a person will have to be decided on the basis of the district from where he has passed his secondary school examination and such candidature will be for determination of the eligibility for admission to B.Ed, course. It has nothing to do with his eligibility to appear in PTET examination and, therefore, his merit will have to be decided on the basis of the district from where he has passed his secondary school examination, if a candidate comes within the merit of the seats available in the college or colleges of the district from where he has passed his secondary school examination than he can be given admission in any of the colleges situated at the places for which he has given his choice but if the basis qualification is missing i.e. he does not come with in the merit of the sets available in his home

district than he cannot be given admission in any other college of his choice in any other district. If a person with lessor merit has been admitted in another district, that does not give a right to the petitioner to get his admission, because he does not figure in the merit list of that district. In these circumstances, when the petitioner has passed his secondary school examination from Jodhpur, he cannot put his claim for admission to B.Ed. Course either at Doongarpur or at Udaipur, because persons lower in merit than him have been granted admission to B.Ed, course in those districts, as per explanation (5) to Rule 5 of the Rules, the validity of which has already been upheld by this Court in Dharmendra Kumar Bharat's case (supra) in this view of the matter, the alternate plea of Mr. Munshi to grant admission to the petitioner in any other college of Rajasthan where the seat is lying vacant cannot be sustained.

10. In the result, I find no force in this writ petition and it is hereby dismissed without any order as to costs.