
(2019) 03 RAJ CK 0173
In the Rajasthan High Court
Case No : Civil Writ No. 3485 Of 2019

Ritu Rawal

APPELLANT

Vs

State Of Rajasthan Aand Ors

RESPONDENT

Date of Decision : 15-03-2019

Acts Referred:

Rajasthan Panchayati Raj Rules, 1996 — Rule 226

Citation : (2019) 03 RAJ CK 0173

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : S.K. Verma

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against the order dated 03.01.2019 (Annex.14), whereby the Director, Primary Education & Panchayati Raj Department, Rajasthan had come to the conclusion that the petitioner was not eligible for appointment on the post of Teacher Gr.III (Level-II) for subject - Science & Maths.

The petitioner applied for the post of Teacher Gr.III (Level-II) for subject-Science & Maths pursuant to the advertisement dated 31.07.2018. The petitioner indicated her qualification as Bachelor of Science (Home Science) Hons. having obtained her degree from Maharana Pratap University of Agriculture & Technology. Based on the indications made in the on-line applications, the petitioner was provisionally selected on 03.09.2018 and was allotted District Banswara, however, after document verification vide Annex.-9, the petitioner was held ineligible.

The respondent No.3 vide communication dated 22.12.2018 addressed to the Director, Primary Education, sought guidance regarding equivalence of the degree of Bachelor of Science (Home Science) with the eligibility conditions. Pursuant thereto, the Director by impugned communication dated 03.01.2019,

[illegible]

I have considered the submissions made by learned counsel for the petitioner and have perused the material available on record.

"(iii) for the teacher of Science, the candidate must have passed graduation or equivalent examination with at least one subject as an optional subject from amongst Chemistry, Physics, Botany, Zoology, Micro-Biology, Bio-technology and Bio-chemistry;"

A perusal of the record indicates that the petitioner has passed her Bachelor of Science (Home Science) Hons., which is four years' course divided into 08 semesters and only in 2nd semester out of 08 subjects, Bio-chemistry was one of the subjects, which was studied/passed by the petitioner. If the requirement of Rules indicating the qualification is seen, the requirement essentially pertains to having the subject as an optional subject from amongst Science related subject at graduation level. The said requirement was introduced in the Rule after judgment of this Court in Sher Singh v. Dinesh Singh : 2017(3) WLC (Raj.) 178, wherein the Court opined as under :-

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limited to as to how the merit is to be prepared. We find that as per the advertisement, which requires a candidate to have a particular minimum educational qualification and also to have REET eligibility, has decided to prepare merit only on the basis of the marks obtained in the REET which has resulted in causing ambiguity, confusion and administrative chaotic situation where a candidate may be able to secure appointment as a Teacher in a particular subject, even though he may not have studied that subject at all. Such cannot be the purpose of selection and we, therefore, hold that the advertisement condition of preparation of merit itself being vague and contrary to the purpose sought to be achieved, deserves to be set aside and we accordingly do so. It may also be noted that a subject Teacher of level-2 is also entitled for further promotion under the relevant educational service rules in that subject to the level of Teacher Gr.II in order to teach higher classes. If a candidate enters on the lower post, even without having the minimum qualifications in that subject, would amount to resulting in a chaotic situation.

36. The selection on the basis of the condition laid down in the advertisement, therefore, is held to be bad in law and the said criteria is declared as invalid with further directions to the authority to re-advertise the vacancies by preparing a valid criteria of merit for appointment of Teachers for level-2 i.e. for subject Teachers for Classes from VI to VIII afresh keeping in mind the purpose of selection of Teachers in a particular subject."

As noticed, the subject Bio-chemistry was studied by the petitioner as 1 paper out of 8 papers, in 1 semester out of 8 semesters, in a course wherein the entire emphasis has been on the subjects relating to Home Science and therefore, it cannot be said that having studied Bio-chemistry only in one semester as one of the 8 papers, out of 8 semesters, the same would be equivalent to a graduation with one of the subjects as optional subject and therefore, the determination made by the Director holding the degree of the petitioner as not equivalent to the requirement of the Rules and consequently, the petitioner being ineligible, cannot be faulted.

In view of above discussion, there is no substance in the writ petition and the same is, therefore, dismissed.