

(2022) 08 DEL CK 0134

In the Delhi High Court

Case No : Civil Writ Petition No. 12351 Of 2022

Ronra Khathing

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 25-08-2022

Acts Referred:

Citation : (2022) 08 DEL CK 0134

Hon'ble Judges : Suresh Kumar Kait, J;Saurabh Banerjee, J

Bench : Division Bench

Advocate : Ashish Kumar Bhagat, Jitendra Bharti, Mausam Kumar, Ripu Daman Bhardwaj, Vedansh Anand, Manoj Kumar Sharma

Final Decision : Disposed Of

Judgement

CM APPL. 37091 /2022 (for exemption)

1. Allowed, subject to all just exceptions.
2. Application is accordingly disposed of.

W.P.(C) 12351/2022 & CM APPL. 37092/2022

3. By way of the present petition, petitioner seeks following reliefs:

"(a) Issue a writ of Mandamus or any other appropriate writ, order or direction thereby quashing the notice/communication dated 16.08.2022 (Annexure P-5) wherein the rejection of the candidature of the Petitioner was mentioned as bad in law.

(b) Issue a writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to allow the Petitioner to appear in the examination being held on 28.08.2022."

4. Pursuant to Advertisement dated 22.04.2022, petitioner had applied to appear for the post of Asst. Commandant through Limited Departmental Competitive

Examination (hereinafter referred as 'LDCE') for the vacancies years 2018-22, well before the last date of applying for said examination, i.e., 30.05.2022.

5. Learned counsel for petitioner submits that in communication dated 16.08.2022, the reason for cancellation of candidature of petitioner was "No Objection Certificate not signed by the HOO, i.e. Group CDR, NSG." On 18.08.2022, the list of eligible candidates was displayed where name of the petitioner was not present. Thereafter, the petitioner made representation to the Inspector General, Frontier Headquarter, Odisha and Bengaluru on 20.08.2022 and thereafter to Director General, Border Security Force (hereinafter referred as 'BSF') on 22.08.2022.

6. Learned counsel for petitioner further submits that the parent department of the petitioner is BSF, however, the petitioner is presently working on deputation as Training Incharge Commando in National Security Guard (hereinafter referred to as 'NSG'), Mumbai and the petitioner applied through proper channel i.e., his parent department, therefore, NSG has nothing to do with the No Objection Certificate. Thus, the candidature of petitioner has been incorrectly cancelled.

7. Learned counsel for petitioner further submits that the petitioner is maintaining outstanding ACR, therefore, there is no occasion for either BSF or for NSG to not to issue No Objection Certificate to petitioner to participate in abovesaid examination to be held on 28.08.2022.

8. Learned counsel for respondents, who appeared on advance notice, submits that since the petitioner is on deputation with the NSG, Mumbai, therefore, No Objection Certificate is required to be issued from the said department.

9. In view of the fact that the petitioner is an Inspector in BSF, however, is presently working in NSG, Mumbai, had applied for the aforesaid examination pursuant to advertisement dated 22.04.2022 for the post of Assistant Commandant/GD and forwarded by respondent No. 2, we hereby, in the interest of justice, direct both the respondents No.2 and 4 to issue "No Objection Certificate" to the petitioner by 05:00 pm tomorrow, i.e. 26.08.2022, if found otherwise eligible. The certificate so issued shall be sent to respondent No.3-SSB on the same day, who is the Nodal Agency for conducting the examination in question. On receipt of said certificate(s), the respondent No.3-SSB is directed to issue admit card within two hours of the receipt of the same to allow the petitioner to participate in the LDCE 2018-2022 to be held on 28.08.2022 and communicate it to the petitioner via e-mail i.e. ronrakhathing813@gmail.com and upload the same on the official website of the respondent no.3.

10. It is made clear that if there is any material against the petitioner which does not allow the respondents No.2 and 4 to not to issue "No Objection Certificate" to him, the said reasons thereof shall be communicated to petitioner by 05:00 pm tomorrow, i.e. 26.08.2022.

11. Needless to state that if the petitioner is still aggrieved by the decision to be

taken by the respondents No.2 and 4, he may challenge the same before the appropriate Court.

12. With the aforesaid directions, the present petition alongwith the pending application is disposed of.

13. Dasti be given under signatures of the Court Master.