

(2020) 02 RAJ CK 0268
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1890 Of 2020

Samok Kumari Meena

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 13-02-2020

Acts Referred:

Constitution Of Indian, 1950 — Article 226

Citation : (2020) 02 RAJ CK 0268

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Yash Pal Khileree, Maherdeen Mehar

Final Decision : Allowed

Judgement

1. Feeling aggrieved of the action of the respondents in not considering her candidature as a Divorcee, the petitioner has approached this

Court invoking extra ordinary writ jurisdiction under Article 226 of the Constitution of India.

2. The petitioner applied for the post of Compounder Nurse Junior Grade, pursuant to the advertisement dated 06.10.2018.

3. While submitting her online application form on 27.10.2018, in the column meant for marital status without choosing one option out of the choices of sub-category i.e. married/unmarried/widow/divorcee, she directly uploaded copy of her decree of divorce, considering it to be a due compliance for consideration of her category as Divorcee.

4. The respondents invited all the candidates for documents verification on 08.03.2019, on which date the petitioner appeared along with the decree of divorce.

5. The respondents, however, refused to consider petitioner's candidature as divorcee as she had not filled her category as a divorcee and as a matter of fact has shown her status as married.

6. Mr. Khileree, learned counsel for the petitioner, inviting Court's attention towards the material available on record, argued that the petitioner had enclosed her decree of divorce in place of marriage certificate and thought that the same would be sufficient proof for consideration of her candidature as a divorcee, without realising that she had to opt the category of divorcee in the sub-heading of the column meant for marriage.

7. He argued that such error was bonafide and that too on the part of the person concerned running e-Mitra counter.

8. Learned counsel for the petitioner further argued that during the process of documents verification, wherever lapses were found or documents were lacking in some manner, the respondents have given time to such candidates to cure the lacuna and as such, if the respondents felt that despite having decree of divorce, petitioner had not filled the column relating to marriage appropriately, they ought to have at least given her option to correct the form accordingly or they should have considered petitioner's decree of divorce and treat her a divorcee candidate.

9. Mr. Mehar, learned counsel for the petitioner submitted that petitioner herself has shown her status as married and, therefore, her candidature was considered as a "ST-Female Candidate" and not an "ST-Divorcee".

10. He argued that the opportunity to fill up the lacuna was provided to those candidates, who despite filling information correctly, had not enclosed the relevant certificate(s) or decree of divorce etc; but since the petitioner had not even shown herself to be a divorcee, her candidature could neither be considered as divorcee nor could any opportunity be given to fill the lacuna. He added that there was no provision to correct the application form.

11. Heard.

12. Needless to observe that the State has introduced the reservation to divorcee candidates with a view to give such women a financial support and impetus to gain confidence and dignity.

13. There is no quarrel about petitioner's divorcee status.

14. True it is, that due to inadvertence or the carelessness of the person manning e-Mitra center, the petitioner has not opted correct option, while

submitting her online application form. Ideally, in the category of marriage, she ought to have indicated herself as a divorcee before uploading her decree of divorce.

15. Concededly, the petitioner had uploaded the decree of divorce along with her application form, despite omitting to chose one option out of divorcee/widow category- she has simply uploaded her decree of divorce against the space meant for marriage certificate.

16. Considering the fact that after documents verification, the respondents have provided an opportunity to all those candidates, whose documents were lacking in some manner or there were certain lacuna, this Court is unable to countenance the approach of the respondents, who have refused to consider petitioner's candidature in the category of ST-Divorcee, knowing it fully well that the petitioner is a divorcee.

17. It may be noted that the present case is not a case of change of category at all. The petitioner being a ST-Divorcee candidate wanted to stake her claim against the seats reserved for divorcees and that is why she had uploaded her decree of divorce, along with her application form.

18. It cannot be said that by not filling the correct option qua her marital status she stood to gain or had the opportunity of being considered in a lesser competitive strata.

19. In the peculiar facts of the case, in the opinion of this Court, the respondents have wrongly denied the petitioner her valuable right of being considered as a ST-Divorcee candidate.

20. The writ petition, therefore, succeeds.

21. The respondents are directed to consider petitioner's candidature as a ST-Divorcee candidate and provide her appointment, subject of course to her merit position in such category and fulfilling other eligibility criteria.

22. The respondents shall be free to verify petitioner's documents in accordance with law before according her appointment.

23. Needful be done within a period of two months from today.

24. Stay application is also disposed of.