
(2012) 10 SHI CK 0001
In the High Court Of Himachal Pradesh
Case No : LPA No. 332 of 2012

Sh. Dola Ram

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 19-10-2012

Acts Referred:

Citation : (2013) LabIC 315

Hon'ble Judges : Sanjay Karol, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Sanjeev Kumar Suri, for the Appellant; Vivek Singh Thakur, Additional Advocate Gen., Rajesh Mandhotra, Deputy Advocate Gen and Trilok Jamwal, for the Respondent

Judgement

Deepak Gupta, J.—The present appeal is directed against the judgment dated 6th March, 2012, passed by a learned single Judge of this Court in CWP (T) No. 8847 of 2008 whereby the writ petition filed by the present appellant was dismissed. The appellant-petitioner challenged the appointment of respondent No. 6 as Part Time Water Carrier in Government Primary School Chowai Dhar, Block Anni, District Kullu, made in the year 2002. The main ground for challenge was that the candidature of the appellant-petitioner was wrongly not considered.

2. The only dispute is whether the appellant-petitioner should have been considered for appointment as Part Time Water Carrier in Government Primary School, Chowai Dhar or not. It is not disputed that Chowai Dhar falls in Gram Panchayat Kungus and not in Gram Panchayat Karana.

3. It appears that the learned single Judge was not informed that, in fact, this school is actually not in the area of Gram Panchayat Kungus but is actually constructed in Gram Panchayat Karana, in which event the petitioner would also be eligible. On detailed examination of the facts, we find that though the school in question is titled as Government Primary School, Chowai Dhar and was to be set up in Kungus Panchayat, but no person from village Chowai Dhar was willing to give land for the school. The present appellant-petitioner, who is a resident of

village Dhar, which is the neighbouring village, donated the land and the Government Primary School, Chowai Dhar was actually constructed in village Dhar which falls in Gram Panchayat Karana.

4. It appears that these facts were not brought to the notice of the learned single Judge. From the material on record, it is more than apparent that the appellant-petitioner donated the land and the school in question was actually constructed on his land. We fail to understand how the State can take the land of a party, construct a school thereupon and then turn around and say that the person, who has donated the land, is not eligible to be appointed only on the ground that he belongs to a different Panchayat. This question should have been gone into when the petitioner-appellant donated the land and the construction of the school was raised. Once the Government Primary School, though meant for village Kungus, was raised in village Karana on the land of the petitioner-appellant, he could not be held ineligible for appointment. Admittedly, the petitioner-appellant had higher marks than the private respondent. Accordingly, the appointment of respondent No. 6 is held to be illegal.

5. In view of the above discussion, the appeal is allowed. The judgment of the learned single Judge, dated 6th March, 2012, delivered in CWP (T) No. 8847 of 2008 is set aside and appointment shall be offered to the petitioner-appellant in the said school by 31st December, 2012. Since respondent No. 6 has worked as Part Time Water Carrier for the last ten years and we are told that he has been regularized also, in case there is some vacancy in any of the neighboring schools, the respondent-State shall try and accommodate the private respondent in the said school since he also belongs to a poor family. With these observations, the appeal stands disposed of in the aforesaid terms. No order as to costs.