
(1984) 09 OHC CK 0005

In the Orissa High Court

Case No : Original Jurisdiction Case No. 1808 of 1984

Srimati Sukantilata Sahoo

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 05-09-1984

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1984) 58 CLT 587 : (1984) 2 OLR 919

Hon'ble Judges : R.C. Patnaik, J;B.K. Behera, J

Bench : Division Bench

Advocate : B.B. Mohanty, for the Appellant; Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

R.C. Patnaik, J.—In this application under Article 226 of the Constitution of India the petitioner seeks a mandamus to the opposite parties directing them to admit her to the B. Ed. course in one of the Government Training Colleges.

2. Prospectus was issued inviting applications for admission to the 1984-85 B. Ed. course conducted by the Government Training Colleges at Cuttack, Balasore, Berhampur, Sambalpur, Bolangir and Angul. There were 860 seats in all. 50 per cent thereof was reserved for in-service graduate teachers of the State, 5 seats were reserved for the wives and children of defence personnel and ex-service personnel and 10 seats were reserved for the candidates for the outlying Oriya speaking tracts. 405 seats were available for fresh candidates. The 405 seats were distributed district wise according to population, taking the 1971 census figures as the basis. An applicant was required to submit the application form duly filled in and to indicate two options as regards the colleges to which he/she desired admission. If the candidate desired admission to a college other than the one mentioned against his/her home district, he/she was required to furnish sufficient reason. Clause 13 of the prospectus required that the applicant should furnish a residence certificate to the effect that he/she was a bona fide resident

of the district of the State or outlying Oriya speaking tract. The certificate was to be given by a Gazetted Officer/Headmaster of the Government High School/M. L. A. or M. P. of the State.

3. The petitioner passed the Matriculation examination in 1978 and was placed in the First Division. At the Intermediate examination of 1980, she was placed in the First Division. In 1982, she completed her Degree course with Honours. She applied for admission to the B. Ed. Course. She stated therein that Keonjhat was her home district and further indicated that she was also a resident of Cuttack. As regards her option for colleges: she indicated Radhanath Training College, Cuttack and the Training College at Angul. She further stated that she was a resident of Cuttack as her husband was an advocate practising in the High Court. The residence certificate was furnished by a Gazetted Officer. He certified that the petitioner was resident of Bamphi Sahi in the Sadar Tahasil of Cuttack district.

4. The petitioner has alleged that her application was scrutinised by the authorities and she was called for an interview. Obviously, therefore, her application was not rejected under Clause 26 of the prospectus.. Clause 26 of the prospectus provided that the application would be rejected (i) if it was incomplete in any respect, (ii) was not sent to B. Ed. Central Selection Board and Director, State Council of Educational Research and Training, Unit-V, Bhubaneswar, or (iii) if the residence certificate was not furnished in the body of the form. An admit card (Annexure-2) was issued to her and she appeared before the Selection Board at Balasore on 16. 7.1984. She was directed by the Board to appear for an interview before the State Council of Educational Research and Training, Bhubaneswar, as her residential district was different from the home district. On 18.7.1984, she appeared before the Selection Board, Bhubaneswar. " The petitioner has alleged that though she did well, at the interview, she has come to learn that she has been refused admission on the ground that her residential district was different from her home district.

5. Shri B. B. Mohanty, learned Counsel for the petitioner, has urged that the rejection has been arbitrary and capricious. The applicants were required to furnish two options. Assuming that the petitioner had shown herself as resident of two districts, admission should not have been refused on that ground. Further, it has been urged that the defect was not such as could not have been removed. The arbitrary action of the authorities has tended to blight the otherwise bright career of the petitioner.

6. The learned counsel for the opposite parties has, on the other hand, urged that the application form was not filled in in accordance with the instructions contained in the prospectus. The application was, therefore, defective and was liable to be rejected. It has been stated in the return submitted by the opposite parties that the petitioner indicated that Keonjhar was her home district but the residence certificate was in respect of Cuttack, a different district. Therefore, there was no supporting certificate. It has further been averred that in Clause 11 of the prospectus, the applicants were warned that an application was liable to

be rejected if it was incomplete or contained incorrect information.

7. It is unnecessary for us to decide whether a person can have more than one permanent residence. Though we are of the view that a person can have his abode at more than one place, the permanent character of the abode would depend upon the facts and circumstances, that however is not a moot point here. The petitioner belongs to the district of Keonjhar. So, Keonjhar was indicated as her home district. She lives with her husband at Cuttack. The residence certificate was in respect of the latter. True there is some discrepancy, but the defect was not such as was not rectifiable. If there was a mistake, it was not fatal for the cause. It did not introduce a fundamental infirmity which disentitled the applicant to a seat though considered worthy. In such matters, hyper-technical, approach is not conducive to the object for which the exercise is taken. The object is to select the best candidates for the course, the meritorious ones who would in future mould the destiny of the nation's young. The requirement of indicating the home district is for the purpose of assigning the college. Every requirement should not be raised to the pedestal of a sacrosanct rite. What is necessary, is a commonsense approach; a humane consideration-a just and fair dealing, keeping the future of the young applicant in view.

No doubt, where certain mandatory requirements are not complied with, the application is liable to be rejected. But where the defect relates to a minor particular,, refusal without an opportunity to rectify would be unjust.

8. In this case, the authorities did not reject the application of the petitioner in limine. An admit card was issued to her. She was asked to appear before the Selection Board at Balasore. The Board perceived the discrepancy, but presumably, in our view, having regard to the bright career of the petitioner directed her to appear before the State Council of Educational Research and Training at Bhubaneswar and the petitioner did appear. At that stage, she could have been asked to reconcile or rectify the defect. But no such thing was done and from the return we gather that admission to the B. Ed. course was refused because of the aforesaid discrepancy.

9. It has, therefore, been vehemently urged by the learned counsel for the petitioner that the opposite parties having not exercised their power as postulated by Clause 26 of the prospectus at the stage of scrutiny of the application denuded themselves of the authority to refuse at a later stage. In short, he pleads estoppel. We do not decide the said question, as we have reached the conclusion by following a different

10. In our opinion, the mistake was slight. The petitioner was living with her husband at Cuttack and could justifiably claim that as her home district also. Etymologically, home district means the district where one's home is. The petitioner has furnished her address. The authorities could have permitted the petitioner to reconcile when she appeared before them on two occasions. The refusal to admit the petitioner, therefore, has been arbitrary. By our order dated

2. 8. 1984, we had directed to keep one seat vacant in the Radhanath Training College. If the petitioner has done well to deserve admission on merits, she be admitted to the B. Ed. course. Let a mandamus go.

11. The writ application is, accordingly, allowed. There would be no order as to costs.

B.K. Behera, J.

12. I agree.