
(2013) 08 MP CK 0225
In the Madhya Pradesh High Court
Case No : Writ Petition No. 13079 of 2013

Sunder Lal

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 12-08-2013

Acts Referred:

Citation : (2013) 08 MP CK 0225

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : Ashish Tiwari, for the Appellant; S.M. Lal, learned counsel for the State, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Jha, J.—Heard on the question of admission and interim relief. The petitioner has filed this petition being aggrieved by the order dated 26-6-2013, passed by the Collector, Dindori in Appeal Case No. 132(B-121)/2013-13 whereby the appeal filed by the respondent No. 8 has been allowed and the petitioner's appointment on the post of Gram Rojgar Sahayak of Gram Panchayat, Patangarh, Janpad Panchayat, Karanjiya, District Dindori has been set aside.

2. It is submitted by the learned counsel appearing for the petitioner that the petitioner had obtained highest marks in the selection process and has been placed at Serial No. 1 and, therefore, he was rightly appointed as Gram Rojgar Sahayak but the Collector, Dindori, has wrongly set aside the petitioner's appointment by improperly appreciating the marks of the petitioner. The petitioner has produced mark sheets of Post Graduate Diploma in Computer Application issued by Global Open University, Nagaland at pages 17 and 18 of the petition.

3. Having heard the learned counsel for the petitioner it is observed that the Collector has taken into consideration the mark sheets produced by the petitioner and has observed that the mark sheets issued by the Global Open University in

the first and second semesters examination of Post Graduate Diploma in Computer Application (Surprisingly issued in December, 2009 for both the semesters), filed by the petitioner at page 17 and 18 of the petition were minutely examined by the Collector and he has observed that the petitioner has been awarded 35 marks in Operating Systems (Paper-2) out of 100 in the first semester and 34 marks in System Analysis and Design (Paper-3) out of 100 in the second semester in spite of which he has been declared passed in 2nd class which prima facie on the face of it indicates that the statement of marks is erroneous.

4. The learned counsel for the petitioner, per contra, has relied upon Annexure P-12, Rules and Regulations for Examination and Results, published by the Global Open University and has referred to Clause 10 of the said rules, to contend that the finding recorded by the Collector is perverse. Clause 10 of the aforesaid rules is in the following terms:-

10 The results will be declared within 90 days after the examination. The minimum Passing Marks for each of the theory papers is 40% both in internal (assignments/mini project reports) as well as in external (semester/annual) examination. The minimum Passing Marks for the Master's Thesis is 50%. The aggregate Passing Marks will be 45% after adding the marks of all the papers completed by the examinees.

5. Having heard the learned counsel appearing for the petitioner and after a perusal of the record, it is observed that the minimum passing marks in a subject in theory paper is 40% while the minimum passing marks for the master's thesis is 50% and the aggregate passing is 45% after adding the marks of all the papers completed by the examinees. As apparently, the petitioner has obtained 35 marks in Paper-2, Operating Systems out of 100 in the first semester and 34 marks in Paper-3, System Analysis and Design out of 100 in the second semester he has apparently and undisputedly failed in the said subject in spite of which by an erroneous statement of marks he has been declared second pass in the class in the mark sheets issued by the authorities.

6. As the petitioner has obtained less than minimum passing marks and failed in the subject, even if he has obtained more than 45 marks in the aggregate, he cannot be declared passed as per the aforesaid Rules and Regulations for Examination and Results. In the circumstances, I do not find any irregularity or manifest illegality in the impugned order passed by the Collector, Dindori, dated 26-6-2013, therefore, the petition filed by the petitioner being meritless is accordingly dismissed.