

(2008) 03 JH CK 0076
In the Jharkhand High Court

Urmila Kumari

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-03-2008

Acts Referred:

Citation : (2008) 2 JCR 66

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Judgement

R.K. Merathia, J.—This writ petition has been filed for a direction to the respondents to issue appointment letter to the petitioner on the post of Primary Teacher.

2. Mr. S.N. Pathak, appearing for the petitioner, submitted that though the caste certificate issued by the Block Development Officer, Chas on 17.2.1993 (Annexure 4) was submitted by the petitioner, but even then she was not appointed.

3. The stand of respondent No. 3 in the counter-affidavit is that at the time of verification of the documents and testimonials submitted by the petitioner it was found that she is a permanent resident of Shekhpura in the State of Bihar and she had given her temporary address of Bokaro Steel City in the State of Jharkhand. Therefore, in view of the order issued by the Human Resource Department on 24.11.2006 (Annexure D) based on the judgment of Division Bench of this Court in Kavita Kumari Kandhw and Others Vs. State of Jharkhand and Others, , petitioner could not be given appointment.

4. In Kavita Kumari Kandhaw, (supra), the following questions were raised and answered.

(a) Whether a candidate, belonging to reserved category of the successor State of Bihar has any right to claim reservation in the services of the successor State of Jharkhand, as because it was a part of the erstwhile State of Bihar? and

(b) Whether a candidate, belonging to reserved category of other State, can claim reservation in the matter of appointment in the services of another State?

In Paragraph 11, it was held as follows:

In view of the aforesaid decisions of the Supreme Court it is clear that a Backward Class of one State cannot be deemed to be so in relation to other State and the certificate, issued by one State, is not valid for other State.

In paragraph 14, it was held as follows:

The writ petitioners, private respondents of LPA Nos. 722 of 2004 and 570 of 2005 and the appellant of LPA No. 457 of 2005 belong to Backward Class, including Scheduled Castes and Scheduled Tribes. Most of them belong to the State other than the State of Jharkhand, such as, Uttar Pradesh, or the districts, which now fall within the territory of the successor State of Bihar. Thus, they cannot derive the advantage of reservation for the purposes of appointment in the State of Jharkhand. We have noticed that some of the petitioners have enclosed Castes Certificates, most of which have been issued by the district authorities, which now fall within the successor State of Bihar or Uttar Pradesh whereas one or other petitioner have enclosed the caste certificates, issued by the district authorities, territory of which now fall within the State of Jharkhand. But in many of the cases, the certificates, so enclosed, have been issued much after submission of the application for appointment. It has brought to our notice that many persons though have enclosed the caste certificates, issued by the district authorities of the State of Bihar, in the writ petitions certain certificates, issued by the district authorities of the State of Jharkhand, have also been enclosed to suggest that they belong to the State of Jharkhand. Such individual cases cannot be scrutinised by this Court, nor such claim can be determined, which can be taken care of by the competent authorities of the State. If any certificate, enclosed by one or other petitioner, issued by the district authorities of the State of Jharkhand prior to submission of the application forms, has been enclosed, then the authorities may consider the case of such person for appointment against the reserved categories, if it is found that such persons belongs to the State of Jharkhand. But, those who have enclosed the certificates, issued by the district authorities of Uttar Pradesh or any other State, cannot claim reservation for appointment in the services of the State of Jharkhand. Similarly, those, who have obtained certificates from the district authorities of the State of Jharkhand after the last date of filing of the application form, those certificates also cannot be taken into consideration to grant benefit of reservation.

5. In the present case, the petitioner's case is that she applied under the reserved category and submitted her Caste Certificate issued by the Block Development Officer. Chas, Bokaro dated 17.2.1993. Her husband is working in Bokaro Steel Plant and she is a permanent resident of Bokaro. She made representation when she was not given appointment letter but no order was passed on the same.

6. Counsel for respondents submitted that the said certificate dated 17.2.1993 is invalid as petitioner herself declared that she is permanent resident of Bihar. They further submitted that there were valid grounds for not appointing her and now she might be overage, and therefore, this Court may not direct the respondents to appoint her. They further submitted that it is also not known whether there is any vacancy required to be filled; and whether any fresh appointment process has started or not.

7. In the circumstances, the petitioner is given liberty to move the Secretary, Primary Education, Government of Jharkhand, Ranchi with a copy to the Director, Primary Education, Jharkhand, Ranchi and the concerned Deputy Commissioner. If it is found that the Caste Certificate of the petitioner dated 17.2.1993 issued by the Block Development Officer, Chas, Bokaro, can be accepted as a valid certificate, in view of the contention of the petitioner that after marriage, she became permanent resident of Jharkhand, her case may be considered for appointment under the reserved category provided there is vacancy required to be filled up and if no further selection process has started; and if petitioner has not become overage. This exercise should be completed within six weeks from the date of receipt of such representation. With these observations and directions, this writ petition is disposed of. However, no costs.