
(2021) 02 TEL CK 0008
In the Telangana High Court
Case No : Writ Appeal No. 511 Of 2020

V. Vishnu

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 12-02-2021

Acts Referred:

Citation : (2021) 02 TEL CK 0008

Hon'ble Judges : A. Rajasheker Reddy, J; T. Vinod Kumar, J

Bench : Division Bench

Advocate : R. Sushanth Reddy, K. Udaya Sri, S. Rahul Reddy, D. Bala Kishan Rao, N. Bhupal Reddy

Final Decision : Allowed

Judgement

T. Vinod Kumar, J

Feeling aggrieved by the order passed by the learned single Judge of this Court, in W.P.No.19232 of 2019, dated 21.10.2020, directing the 2nd

respondent "Telangana State Public Service Commission (for short, the Commission) to re-examine the experience certificates of 39

candidates, the present writ appeal is filed. The Appellants mainly assailed the correctness of the said direction given by the learned single Judge

of this Court as being contrary to the settled position of law.

The appellants herein are the petitioners in W.P.No.19232 of 2019. For the sake of convenience, the parties herein are referred to as arrayed in

the writ petition.

Heard Sri R.Sushanth Reddy, learned counsel for the petitioners; learned Government Pleader for Education, appearing for the 1st respondent;

Sri D.Balakishan Rao, learned standing counsel for the Telangana State Public

Service Commission, appearing for the 2nd respondent; Sri

Nirmala Bhupal Reddy, learned counsel for the 3rd respondent; Sri S.Rahul Reddy, learned counsel for the 4th respondent and Sri G.Vidya Sagar,

learned senior counsel representing Smt.K.Udaya Sree, learned counsel for respondent Nos.8 to 28.

4. The facts of the case in a nutshell are that, the 2nd respondent â?" Commission issued Notification No.29 of 2017, dated 02.06.2017, inviting

applications to fill up 304 vacancies to the post of Principals in various Gurukuls and residential schools run by the Telangana State Government.

The mode of applying to the above posts was specified as through online process. As per the said notification, the interested candidates were

required to apply for One Time Registration (OTR) through official website of the 2nd respondent â?" Commission and all the required

information has to be provided by the candidates through OTR only; the date for making online registration and submission of application and

documents was specified as between 06.06.2017 to 24.06.2017; as per the notification, the preliminary (screening) test was to be held on

16.07.2017 and the main examination was scheduled on 12/13.08.2017. One of the condition specified in the said notification for the candidates

applying for the above post, is that the documents submitted / uploaded along with the application through online registration process shall be final,

which includes the prospective candidates filing the proof of possessing teaching experience of five years, after obtaining the qualifying

examination, i.e., Post Graduation, and administrative experience of three years; and that the 2nd respondent- Commission will not entertain the

submission of new documents under any circumstance after the last date specified viz., 24.06.2017. It is the further case of the petitioners that

after going through all the details specified in the notification, the petitioners have applied for the vacancies notified and after undergoing

preliminary (screening) test and written examination, the petitioners were shortlisted for interview in the form of 1:2 ratio. However, the

applications of some of the candidates came to be rejected by the 2nd respondent-Commission, on the ground, as not being in compliance with the

conditions specified in the notification; the documents submitted, on verification were found not to be genuine or fabricated. In the said process of

screening, the applications of 914 candidates were rejected by the 2nd respondent â" Commission.

5. Questioning the action of rejection of application by the 2nd respondent, some of the candidates, whose applications have

been rejected, have approached this Court by filing writ petitions and a learned single Judge of this Court by a common order, dated 10.04.2019, in

W.P.No.5672 of 2019 and batch of cases, disposed of the writ petitions; found fault with the rejection orders passed by the 2nd respondent â

Commission, by a single line order, without assigning reasons, in each of the rejected candidate's case. The learned single Judge, while

allowing the above batch of writ petitions, further directed the rejected candidates to submit individual representation by enclosing the experience

certificates to the 2nd respondent â" Commission and directed the 2nd respondent to examine each individual case on merits and pass individual

speaking order. For giving wider publicity to the above direction issued, the 2nd respondent was directed to cause publication on its website.

Pursuant to the said direction, about 333 candidates submitted their representations individually. It is stated that of the said candidates who

submitted their individual representations, the 2nd respondent â" Commission has considered the cases of 39 candidates by taking into

consideration the additional documents filed by them, in addition to the documents which were uploaded online by registering themselves with

OTR before the due date prescribed, i.e. 24.06.2017.

6. The main grievance of the appellants â" petitioners, is that the 2nd respondent â" Commission could not have entertained new / additional

documents apart from the documents uploaded along with the online applications, under the guise of implementing the common order passed by

the learned single Judge of this Court in the batch of writ petitions. As a consequence of accepting the new / additional documents (experience

certificate), the names of 39 candidates, whose applications were rejected earlier, now find included in the list of candidates shortlisted for

interview, thereby, the petitioners, who were originally shown as shortlisted for interview are omitted from the final list of eligible candidates for

interview. Further, it is also contended by the petitioners that the 2nd respondent â" Commission by accepting new / additional documents from

those uploaded at the time of making online applications, has made 39 candidates eligible for consideration for further selection process by permitting them to attend interview, and claiming that they have secured more merit than the petitioners, the petitioners have been excluded from the zone of consideration in the ratio of 1:2. By permitting and accepting the new / additional documents submitted subsequent to the closure of the online process of registration, the candidates, who were not having requisite experience as specified in the notification, a larger fraud is being perpetrated.

7. Thus, learned counsel for the petitioners would submit that by accepting the new / additional documents, the 2nd respondent "Commission has altered the condition prescribed for making the applications through online process after the closure, which is not permitted and thus, the action of the 2nd respondent "Commission is vitiated. Therefore, it is claimed that the action of the 2nd respondent "

Commission is contrary to the settled legal position. It is also contended that the petitioners being aggrieved by the same filed the W.P. No. 19232

of 2019 and the learned single Judge of this Court while disposing of the above writ petition ought not have issued a direction to the 2nd respondent

"Commission to re-examine the experience certificates of 39 candidates, who were made eligible by the 2nd respondent pursuant to the orders

of this court in W.P. No. 5672 of 2019 and batch; and ought to have directed the 2nd respondent to consider the eligibility of the said 39

candidates as per notification No. 29 of 2017 dated 02.06.2017 on the basis of the documents submitted through online process of registration. In

support of the submissions, learned counsel for the petitioners has placed reliance on the judgment of the Honorable Apex Court in Karnataka

State Seeds Development Corporation Limited V/s H.L.Kaveri (2020) 3 SCC 108.

(8) On behalf of the 2nd respondent "Commission, whose action of including 39 candidates to the list of selected candidates by accepting

additional documents, has been questioned, it is submitted that the 2nd respondent "Commission was only implementing the common order

passed by the learned single Judge of this Court in W.P.No.5672 of 2019 and batch and no malice can be attributed to the 2nd respondent; the 2nd

respondent "Commission, in compliance with the directions issued by this

court caused publication on its website calling upon the candidates to submit individual representations whose applications were rejected earlier; in pursuance thereof 330 candidates submitted their individual representations; and considering the said representations filed by each of the individuals, only 39 candidates were considered and found to be eligible and included to the list of candidates shortlisted for interview. It is further submitted that, out of 39 candidates, whose candidature was considered as eligible, 23 candidates were women candidates who were found eligible for the vacancies reserved under the category for women.

On behalf of the 2nd respondent â?" Commission, it is also contended that by accepting the new / additional documents, the 2nd respondent â?"

Commission did not commit any irregularity and if such new / additional documents are not accepted and considered, the 2nd respondent â?"

Commission would have been held as having committed contempt of court of the common order passed by the learned single Judge.

(9) On behalf of the 4th respondent, it is contended that when the candidature of the 4th respondent was rejected by the 2nd respondent â?"

Commission, initially without assigning any reason and by passing a single line order; the respondent had approached this Court by filing W.P.,

though on a different ground, but the said writ petition came to be disposed of as being covered by the common order in the batch of writ petitions.

Since, the 2nd respondent did not assign detailed reasons while rejecting the 4th respondent's application initially, the action of the 2nd

respondent â?" Commission in including the name of the petitioner in the list of 39 candidates, by considering the additional documents cannot be

found fault with. It is contended that if the action of the 2nd respondent â?" Commission of accepting the new / additional documents is held to be

not valid, the 2nd respondent should be directed to assign reasons for rejecting the 4th respondent candidature on the basis of the online process of

registration, and petitioner be granted liberty to question the action of the 2nd respondent â?" Commission, as to the reason assigned for rejection

of petitioner application / candidature.

(10) Despite service of notice, there was no representation on behalf of respondent Nos.5 to 7.

(11) On behalf of respondent Nos.8 to 28, it is contended that the respondent

No. 8 to 28 are competing for the vacancies reserved under the women category; there is no challenge to the selection of respondent Nos.8 to 28 by any other candidate; no prejudice is caused or would have any impact or bearing to the case of the petitioners; and thus, the order passed in W.P. No. 19232 of 2019 does not call any interference, as the impugned order contains safeguards within. However, learned Senior Counsel does not dispute the directions of the Apex Court in H.L. Kaveri's case (supra).

12. Having given due consideration to the submissions made as above, it is to be noted that the 2nd respondent " commission having accepted new / additional documents along with the individual representations submitted by the candidates, who's applications submitted through online registration process in terms of Notification No. 29 of 2017 were rejected earlier, is an admitted fact. However, in order to examine whether such course of action by the 2nd respondent is permitted or is in consonance with the Notification issued, it would be worthwhile to take note of some of the conditions of the Notification No.29 of 2007 issued by the 2nd respondent " Commission calling for application to fill up 304 vacancies to the post of Principal (School) in various Residential Educational Institutions Societies of the Telangana State Government.

(m) As per Para-I, clause 2, of the notification, the candidate is first required to undertake One Time Registration (OTR) on the official website of the 2nd respondent before applying for the posts. Clause 3 specifies that the candidates shall apply online by satisfying themselves about the terms and conditions of the recruitment and provides the details of vacancies. Clause 4 thereof deals with educational qualifications and experience, which the candidate should possess to apply for the post notified. Para-III of the notification provides as to "How to apply" and upload the application form, and details the five steps to be followed while submitting the applications through online. The note 2 and 3 appended to this para specifies that " "

^ The particulars furnished by the applicant in the Application Form will be taken as final and data entry is processed, based on these particulars only by computer. Candidates should, therefore be very careful in Uploading / Submitting the Application Form Online.

(3) Incomplete/incorrect application form will be summarily rejected. The information if any furnished by the candidate subsequently in any form

will not be entertained by the Commission under any circumstances. Applicants should be careful in filling-up the application form and submission.

If any lapse is detected during the scrutiny, the candidature will be rejected even though he/she comes through the final stage of recruitment

process or even at a later stage.

Para-IV of the notification deals with general provisions and clause 2 and (vi) read as under â?

Â The applications received online in the prescribed proforma available in the website and within the time shall only be considered and the

Commission will not be held responsible for any kind of discrepancy.

Â Important â?" The claim of the candidates with regard to the date of birth, educational / technical qualifications, experience and community are

accepted only provisionally on the information furnished by them in their application form and is subject to verification and satisfaction of the

Commission. Mere admission to any test or interview or inclusion of the name of a candidate in a Merit List will not confer on the candidate any

right for appointment. The candidature is therefore, provisional at all stages and the Commission reserve the right to reject candidature at any

stage of the selection even after the advice has been made.

Para V deals with important legal provisions governing the recruitment process. Para VIII therein specifies the procedure of selection.

(xiv) From a perusal of the notification issued, it is evident that in order to make an application to the post of Principal, one first needs to register

themselves as per the One Time Registration (OTR) through the official website of the 2nd respondent to obtain ID by submitting the documents

like Educational qualification, Community/Caste Certificate, Aadhar number and other details specified. Once such OTR has been done and ID

obtained, the candidates are required to make application online by selecting the notification number as detailed in step-II of Para-III of the

notification. The conditions of notification also specifies that before obtaining registration and making an application, one needs to verify the details

thoroughly, as once submitted, the same will be taken as final and no further alterations would be allowed.

(xv) It is pursuant to the said notification issued, the candidates, who found themselves to be eligible, obtained OTR through the official website of the 2nd respondent â?" Commission and submitted their applications along with necessary documents. However, the 2nd respondent, having found the applications made by 904 candidates not being eligible, rejected the same. The 2nd respondent, instead of sending a communication to each of the candidate separately, specifying the reason of rejection of his/her application, has published a list of the candidates whose applications are rejected with one line reasoning. Some of the candidates including the 4th respondent, whose applications came to be rejected, approached this Court by filing separate writ petitions with the one of such writ petition being numbered as W.P.No.5672 of 2019. By the writ petitions so filed, the candidates whoâ??s applications were rejected, questioned the action of the 2nd respondent in rejecting their applications without assigning any valid reason, and such action being in violation of principles of natural justice. In all the writ petitions filed by the petitioners, as noted in the order passed in W.P. No. 5672 of 2019 and batch, it is their common case that they have requisite qualification and are fully eligible and qualified to be appointed as Principal; that though they have enclosed requisite duly attested experience certificates issued by the competent authority, the 2nd respondent-Commission had unilaterally rejected their cases by single line reason for each candidate and without assigning detailed reasons as to why the certificates produced by the petitioners are not valid.

16. Thisâ? Court,â? byâ? consideringâ? theâ? saidâ? submissionâ? madeâ? andâ? the manner in which the 2nd respondent has passed the order rejecting the applications of 914 candidates, while allowing the writ petitions filed, directed the candidates whose applications were rejected to submit individual representations by enclosing the experience certificates and further directed the 2nd respondent â?" Commission upon receipt of such individual representation to examine each individual case on its merits and pass individual speaking orders within a period of four weeks, indicating the reasons for rejection. Though, on behalf of the 2nd respondent â?" Commission, it is submitted that pursuant to the said direction, out of 914 candidates whoâ??s applications were rejected by the 2nd respondent, 330 candidates have submitted individual representations enclosing

experience certificates, which in some cases were the same as submitted online, but in few cases, the candidates have submitted new / additional documents.

Though on behalf of the 2nd respondent, it is contended that the said course of action adopted by 2nd respondent was permitted in order to give effect to and for implementing the common order passed by the learned single Judge of this Court, it is to be seen that the learned single Judge, while disposing of W.P.No.5672 of 2019 and batch, did not direct the 2nd respondent " Commission to accept any new documents and only directed to submit individual representations enclosing the experience certificates, which implies the certificates which are already uploaded. Any other interpretation would be in violation of the law laid down by the Honâ??ble Supreme Court which are relied upon, referred to and discussed (infra) and as such the interpretation sought to be given by the 2nd respondent-Commission is misplaced.

(17) On the contrary, the learned single Judge of this Court while taking note of the stand of the petitioners in W.P.No.5672 of 2019 and batch, of enclosing requisite duly attested experience certificates and the 2nd respondent not having considered the same in correct perspective, while finding fault with the rejection order of the 2nd respondent, has given a categorical finding. The relevant portion of the order in W.P.No.5672 of 2019 reads as under:

â??This Court, having considered the rival submissions of the parties, is of the considered view that the Telangana State Public Service

Commission has rejected the cases of nearly 914 cases without assigning detailed reasons. From a perusal of the impugned rejection order, it is

palpable that it is made without application of mind, as against S.No.17, it is stated â??no administrative exp.â? and against S.No.21, it is stated

â??no teaching exp.â? This kind of rejection order is arbitrary and the same cannot be sustained. When the petitioners have contended that they

have submitted requisite experience certificates of both teaching experience and administrative experience, without dealing their individual case,

the Telangana State Public Service Commission has rejected their cases with a simple rejection order running into 31 pages and against each

candidate, a single line reason is assigned. (underlining supplied by us now) It is

interesting to note that the rejection order starts as follows:

“The following candidates have been Rejected for the post of Principal in Schools vide Notification No.29/2017 due to the various reasons

mentioned against their Hall Ticket numbers.” Giving a single line reason for rejection of each candidate shows that the rejection orders are

passed without application of mind. If the contention of the learned Standing Counsel that the cases of the candidates were rejected based on the

respective DEOs’ report is correct, then the Telangana State Public Service Commission should have passed individual rejection orders based

upon the DEOs report, but no such attempt is made. Therefore, this Court is of the considered view that the impugned rejections orders passed by

the Telangana State Public Service Commission are liable to be rejected. ”

18. A reading of the above portion of the order clearly goes to show that it is the case of the petitioners therein that they had filed all the requisite

documents necessary along with the applications, which the 2nd respondent “ Commission had failed to consider, and rejected their applications.

After noting the said submission made on behalf of the petitioners, the learned single Judge of this Court directed the 2nd respondent “

Commission to consider the applications of the petitioners therein individually and also allowing the candidates to submit their individual

representations.

19. Thus, this court is of the considered view, the said direction of the learned single Judge, by no stretch of imagination, permitted the 2nd

respondent “ Commission to accept new / additional documents apart from the documents already uploaded along with the submission of the

application online, upon issuance of Notification No. 29 of 2017 in June, 2017 for being considered. Though, it is sought to be contended that the

2nd respondent - Commission was only to implementing the common order passed by the learned single Judge whereby the rejected candidates

were directed to submit individual representation by enclosing the experience certificates to be considered by the 2nd respondent on its merits in

each individual case, the said direction can not be construed as permitting filing of new / additional documents by the rejected candidates, contrary

to the assertion made on oath by each of the petitioners in the writ affidavit filed before this court. Further, if the said contention urged by the 2nd

respondent is accepted, more so after a lapse of two years after the entire process of making application in pursuance of notification issued,

screening and written test having been completed, would amount to introducing / altering conditions of the notification issued.

20. The Honâ??ble Supreme Court as early as in the year 1965 in C. Channabasavaih etc. v. State of Mysore and others (1965) 1 SCR 360 =

AIR 1965 SC 1293, had observed as to how a Public Service Commission should conduct itself in dealing with the public appointments and had

observed that â?

â??It seems surprising that Government should have recommended as many as twenty-four names and the Commission should have approved all

those names without a single exception even though in its own judgment some of them did not rank as high as others they had rejected. Such a

dealing with public appointments is likely to create a feeling of distrust in the working of Public Service Commission, which is intended to be fair

and impartial and to do its work free from any influence from any quarter.â? (underlining supplied by us) However,â? evenâ? afterâ? fourâ?

decades,â? theâ? changeâ? asâ? envisaged,â? inâ? the conduct of Service Commission in dealing with such public appointments seems to be far

from being realised, as it is well known that whenever a general recruitment is undertaken, the same is embroiled in litigation in one form or the

other.

21. In Tej Prakash Pathak and Others v. Rajasthan High Court and Others (2013) 4 SCC 540, a three judge bench of the Honâ??ble Supreme

Court while referring the matter to be considered by a larger bench of the Apex Court, with regard to the application of principle â??rules of the

gameâ? when the change sought is to impose a more rigorous scrutiny, whoever dealing with change of eligibility criteria, was pleased to observe

that â?

â??No doubt it is a salutary principle not to permit the State or its instrumentalities to tinker with the â??rules of the gameâ? in so far as the

prescription of eligibility criteria is concerned as was done in C. Channabasavaih v. State of Mysore, etc., in order to avoid manipulation of the

recruitment process and its results.â??

22. Further, in a recent judgment rendered in Karnataka State Seeds

Development Corporation Limited V/s H.L.Kaveri (supra), on which reliance has been placed by the learned counsel for the petitioner, the Honâ??ble Supreme Court, while allowing the SLP filed against the order of the Division Bench of the Karnataka High Court in a Writ Appeal directing the appellant Corporation to consider the claim of the respondent taking note of the work experience certificate which was not enclosed with the application, held as under â?

14. It remains undisputed as recorded by the learned Single Judge of the High Court in the order after perusal of the original records of which reference has been made that the first respondent had not enclosed her experience certificate along with the application and her statement on oath was found to be factually incorrect and the rejection of her application was indeed in terms of the advertisement dated 11-11-2013 for which the Corporation was not required to assign any reasons which although was disclosed before the Court and noticed by the learned Single Judge in its judgment.

15. In the given circumstances, we do not find any error being committed by the Corporation in its decision-making process while rejecting the application of the first respondent for non-fulfilment of the necessary experience certificate which was to be enclosed along with the application as required in terms of the advertisement dated 11-11-2013.

23. Having regard to the above, it is settled position of law that changing the rules of game in the middle of selection process or during the process of selection or after the process is over, is not permitted or valid. Even in the facts of the present case, the 2nd respondent ought not to have or could not have accepted new / additional documents from the rejected candidates, thereby making the condition of â?" â?"no additions / change being permittedâ? specified in the notification, otiose. Having regard to the above settled position of law, the action of the 2nd respondent â?

Commission in accepting / permitting submission of new / additional documents by the candidates whoâ??s applications submitted online were found to be not in compliance with the conditions specified in the notification and stood rejected earlier, cannot be said to be valid or justified.

24. Thus, this Court is of the opinion that the understanding of 2nd respondent â?" Commission, of the order in W.P.No.5672 of 2019 and batch, as

permitting the candidates to file fresh / new experience certificates or additional documents in addition to the documents that were submitted along

with their online applications through OTR process, is misconceived.

25. In the light of the above, this Court is of the view that the action of the 2nd respondent in considering the new/additional documents submitted

by 39 candidates cannot be held to be valid and also the direction of the learned single Judge in directing the 2nd respondent " Commission to

re-examine the experience certificates of 39 candidates in view of the objection raised by the petitioners, also cannot be sustained.

26. Accordingly, the Writ Appeal is allowed; direction of the learned single judge to re-examine the new experience certificates of the 39

candidates furnished subsequently after the submission of application through online OTR process, is hereby set aside; the action of the 2nd

respondent " Commission in permitting the rejected candidates to submit new / additional documents and experience certificates cannot be held

to be valid; and the action of the 2nd respondent " Commission in considering such new / additional documents in respect of 39 candidates is

also liable to be rejected. The 2nd respondent- Commission is hereby directed to consider only the documents uploaded by each of these 39

candidates along with the application submitted through online process, if not considered earlier, on its merit and pass individual speaking order and

communicate the same to the candidate as directed by this court vide order dated 10.04.2019 in W.P. No. 5672 of 2019 and batch.

27. In so far as the claim of 4th respondent is concerned, as the said respondent is also part of the 39 candidates in respect of whom

new/additional documents are accepted and considered, since, it is claimed that even otherwise the 4th respondent

candidature would be eligible, the 2nd respondent " Commission shall consider the application without reference to the new / additional

documents submitted, on its merits; pass a reasoned order and communicate the same to the 4th respondent-candidate. Upon such communication,

it is open for the 4th respondent to work out its remedies, if aggrieved by the order so passed.

28. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.