
(2019) 01 JH CK 0172
In the Jharkhand High Court
Case No : Writ Petition (C) No. 2430 Of 2017

Yogesh Kumar

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Citation : (2019) 01 JH CK 0172

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Bandana Sinha, Abha Verma, Abhijeet Kr. Singh

Final Decision : Dismissed

Judgement

The writ petition has been filed for issuance of direction upon the respondent-authorities to declare the petitioner who has passed JTET Examination,

2016 (For Class I to V) and JTET Examination, 2016 (For Class VI to VIII) by treating him to be a Backward Class category instead of General

Category (Annexure-II).

The brief facts of the case of the petitioner is that in the light of appointment published by the respondent-authorities being Advertisement No.47/2016

whereby and whereunder the applications have been invited for filling the post of Teachers for Class 1 to V and for Class VI to VIII, in terms thereof,

the petitioner has made his application however, the grievance of the petitioner is that although he belongs to Backward Class category but his

candidature has been considered under the General Category and, therefore, the appropriate direction may be issued to the respondent-authority to

rectify the category of the petitioner and thereafter, publish the result.

Learned counsel for the respondents-JAC has appeared and filed the detailed

counter-affidavit wherein it has been stated that the petitioner has submitted his application under the General Category candidate since he has not annexed any caste certificate in support of his category belonging to the Backward Class and, therefore, his candidature has been considered in the General Category candidate, so far as Level I is concerned, petitioner has obtained 88 marks and in Level II, he has obtained 84 marks and as such, he has not been qualified in the said examination and, therefore, he has been treated as General Category candidate, hence, the result has been published.

Heard learned counsel for the parties and after appreciating the rival submissions, the fact in dispute is that in terms of the Advertisement

No.47/2016, the petitioner has made an application for consideration of his candidature for appointment as Teacher in Level Class 1 to V and Level

Class VI to VIII in the aforesaid advertisement. Applications have been invited category-wise.

Admittedly, the petitioner has not submitted his application by annexing any caste certificate showing himself to be a member of Backward Category

and, therefore, his candidature has been considered in the General Category.

It is evident from the stand taken by the respondent in the counter-affidavit, more particularly paragraph nos.6, 7, 8 and 9 that the petitioner has

obtained 88 marks so far as Level I and Level II is concerned and, therefore, he has been declared to disqualify in the said examination.

It is settled proposition of law that if the candidate submits an application, he is supposed to submit the same along with testimonials including caste

certificate, if the candidate intends to take benefit of the reservation and in absence thereof, candidate cannot claim any benefit of reservation.

It is settled law that in absence of any caste certificate, the benefit of reservation by the Examining Body is not supposed to be considered and the

candidature of candidate is to be considered under the unreserved category, accordingly, his candidature has been considered under the unreserved

category under which he obtained lesser marks in both the examinations as is evident from the counter-affidavit.

The aforesaid stand taken by the respondent has not been rebutted since no rejoinder affidavit has been filed to that effect.

In view of the reason assigned in the counter-affidavit and taking into

consideration the fact that the petitioner has been declared disqualified because of securing lesser marks in Level I and Level II examination, therefore, his candidature is not fit to be considered by this Court.

Accordingly, the writ petition is dismissed.

As the main writ application is dismissed, consequently, I.A. No. 6957 of 2018 also stands disposed of.