

Kitabun Khan Vs. the State of Madhya Pradesh, Panchayat and Rural Development Department

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Court : Madhya Pradesh

Decided On : Sep-27-2012

Appellant : Kitabun Khan

Respondent : The State of Madhya Pradesh, Panchayat and Rural Development Department

Advocate for Pet/Ap. : Shri. Surya Kumar Patel

Judgement :

kitabun khan versus state 1 W.P.No.15918/2012 27/9/2012 Shri Surya Kumar Patel, learned counsel for the petitioner.

Shri Amit Sharma, learned Panel Lawyer for the respondents on advance notice.

Challenging the order Annexure P/5 dated 28.8.2012 passed by the Collector, District Chhatarpur in the matter of appointment of Gram Rojgar Sahayak to the panchayat in question, petitioner has filed this writ petition.

Records indicate that a process of selection for the post of Gram Rojgar Sahayak was held in which petitioner, respondent No.5 and one Shri Ramesh Kushwaha have participated.

The documents were assessed and Gram Panchayat prepared the merit list.

In the merit list prepared Shri Ramesh Kushwaha was kept at Srl.

No.1 having received 82.66 marks, respondent No.5 Sitaram Ahirwar was placed at Srl.

No.2 having received 72.11% marks and petitioner's name appears at Srl.

No.3 as she received 61.77 marks.

However, when the aforesaid list prepared by the Gram Panchayat was placed before the District Level Screening Committee, various objections were raised and the District Level Screening Committee amended the merit list and held that respondent No.5 was not entitled to the 15 marks allotted and prepared a amended merit list in which Shri Ramesh Kushwaha was kept at Srl.

No.1 and petitioner's name at Srl.

No.1 of the waiting list.

Subsequently thereof, it seems that petitioner was appointed.

kitabun khan versus state 2 Challenging the appointment of the petitioner, respondent No.5 filed an appeal before the Collector and appeal having been allowed, the matter has come to this Court at the instance of the petitioner.

Learned counsel for the petitioner argued that in the present case, the Collector has remanded the matter back for reconsideration of select list and deciding the question with regard to awarding 15 marks to respondent No.5 for having worked as a Mate.

It is emphasized by him that along with the application submitted respondent No.5 did not enclose requisite certificate of experience and therefore, the District Level Selection Committee rightly refused to grant him 15 marks in the absence of experience Certificate.

Without any justification it is argued that the Collector remanded the matter back for fresh consideration which is not warranted in the facts and circumstances of

the case.

Shri Amit Sharma, learned counsel appearing for the State on advance notice took me through the reasons given by the Collector and indicated that as there were serious dispute with regard to experience certificate of respondent No.5 the Collector has only remanded the matter back to the appropriate Committee for reconsideration and in doing so it is stated that no error has been committed.

I have heard learned counsel for the parties and perused the record.

If the reasons that weighed with the Collector for remanding the matter back are analyzed, it would be seen that respondent No.5 did not submit the appropriate experience Certificate for working as a Mate kitabun khan versus state 3 signed by the Sarpanch and Secretary of Gram Panchayat but has produced various documents issued by the Departmental authorities indicating that he had worked for the said period as a Mate.

The Collector found that the question of awarding 15 marks to respondent No.5 requires enquiry as it was the case of respondent No.5 that the Sarpanch and the Secretary are deliberately refusing grant of Certificate to him and therefore, he produced various other documents to show that he has worked for the said period.

The Collector found that after taking note of all these documents the Gram Panchayat had awarded him 15 marks and the District Level Selection Committee has simply deducted this mark on the ground that experience certificate attested by Sarpanch has not been filed but finding some documents to be available to show that respondent No.5 had worked, the Collector has remanded the matter back to the appropriate Committee for reconsideration.

It is the considered view of this Court that merely on the technical ground that Certificate attested or signed by a particular officer is not presented, a deserving candidate who is more meritorious than the petitioner should not be thrown away from the process of selection.

There was justification on the part of the Collector in remanding the matter to the appropriate Committee for conducting an enquiry with regard to working of

respondent No.5.

Justice should be done to him and merely on technical ground his claim for appointment should not be rejected.

It is on all these factors being appreciated by the Collector, that he has remanded the kitabun khan versus state 4 matter for reconsideration.

In doing so, I am of the considered view that the Collector has not committed any error.

A reasonable order in the facts and circumstances of the case with an endeavor to select more meritorious candidate as per merit, does not call for any interference by this Court exercising limited jurisdiction under Article 226 of the Constitution.

Accordingly, finding no case for interference with the remand order passed by the Collector, this petition is dismissed at this stage, without notice to the respondents.

(Rajendra Menon) Judge mrs.mishra

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