

Mahendra Kumar Vs. State of Raj. and anr

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Court : Rajasthan Jodhpur

Decided On : Jun-18-2014

Appellant : Mahendra Kumar

Respondent : State of Raj. and anr

Judgement :

[1].IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR
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ORDER

:: Mahendra Kumar versus State of Rajasthan & Anr.

S.B.CIVIL WRIT PETITION NO.4504/2014 DATE OF

ORDER

:: June 18, 2014 PRESENT HON'BLE Mr.P.K.LOHRA, VJ.

Mr.B.S.Tinwar, for the petitioner.

BY THE COURT: Petitioner by this writ petition is seeking annulment of condition envisaged in the result counseling Notification No.05/2014 issued on 6th of June 2014 (Annex.6).whereby cut-off date is fixed for an incumbent aspirant for admission in BSTC CouRs.to acquire requisite eligibility before 22nd June 2014.

In the alternative, a prayer is also made seeking direction against the respondents to consider the candidature of petitioner for counseling to secure admission in BSTC (General) 2014.

[2].The facts in brief are that the second respondent issued a notification dated 10th of March 2014 inviting on-line applications for Pre-BSTC (D.El.Ed.) Examination.

Pursuant to that, petitioner submitted his application and offered his candidature.

As per Clause 4 of the advertisement, it was insisted that the incumbent is required to acquire the eligibility at the time of counseling else he shall not be permitted to participate in counseling.

The petitioner took up his Senior Secondary Examination (Arts) 2014 conducted by Rajasthan Board of Secondary Education, Ajmer.

The result of the said examination was declared, wherein he failed to pass optional History Paper and was awarded supplementary in that examination.

On declaration of the said result, the petitioner submitted an application on 26th of May 2014 for retotaling of his History subject examination and the result of the same is still awaited.

Learned counsel for the petitioner has urged that his result pertaining to retotaling of History subject is still awaited and therefore the petitioner may be permitted provisionally to participate in the counseling.

In alternative, the learned counsel for the petitioner has [3].urged that the condition envisaged in the counseling notification dated 6th of June 2014 insisting for acquiring requisite eligibility on or before 22nd of June 2014 be declared arbitrary and the same is liable to be annulled as violative of Article 14 of the Constitution.

I have heard learned counsel for the petitioner and perused the materials on record.

It is an admitted fact that at the threshold when notification dated 10th of March 2014 was published inviting on-line applications, a condition was envisaged as Condition No.4 postulating that an incumbent aspirant for admission in BSTC CouRs. must acquire requisite eligibility at the time of counseling and relevant Clause 4 is reproduced as under: ^tks vkosnd dh o"kZ2014esa lhfu;j ISds.Mjh ijh{kk esa lfEefyr gks jgs gSa os Hkh vkosnu djus gSr.ik= gksxss].ijarq mUgsa dkWmUlfiyax ds le; rd ik=rk dh IHkh 'krksaZ dks iw.kZ djuk vfuok;Z gksxkA ;g fd lhfu;j ISd.Mjh dk ijh{kk ifj.kke fu/kkZfjr dkmalfiyax dh fnukad rd ugha fn;s tkus ij vFkok fu/kkZfjr vad izklr ugha gksus dh fLFkfr esa vH;FkhZ dks dkmalfiyax [4].esa 'kkfey ugha fd;k tkosxkA^ The subsequent counseling information issued by the second respondent on 6th of June 2014 is nothing but reiteration of the condition envisaged in the advertisement dated 10th of March 2014, which reads as under: ^vH;fFkZ;ksa dks fgnk;r nh tkrh gS fd osc lkb ZV ij miyC/k ^lkekU; fnkk funsZk^ ds vuqlkj ch,IVhlh ikB~;e esa izosk gSr.viuh ik=rk dh Lo;a tkWap djsa rFkk IHkh n~+f"V ls izosk gSr.ik= gksa rks gh dkWmUlfiyax esa Hkkx ysaA ch,IVhlh ikB~;e esa izosk gSr.ik=rk iznku djus okyh ijh{kk lhfu;j ISds.Mjh esa bl o"kZ cSBs vH;FkhZ /;ku nsa fd mudh lhfu;j ISd.Mjh ijh{kk dk ifj.kke mudh Js.kh gSr.okafNr izklrkad izfrkr lfgr fnukad 22 twu].2014 rd vk pqdk gks rFkk blesa bl frfFk rd ik=rk ijh {kk esa iwjd ;k dksbZ isij cdk;k ugha gksA vH;fFkZ;ksa dks iqu% lwfpr fd;k tkrk gS fd ;fn os 22 twu].2014 rd ik=rk ugha j[krs gSa rks os dkWmUlfiyax esa Hkkx ugha yssaA [5].iqu% eqY;kadu@iwjd ijh{kk ds ifj.kkeLo:i 22 twu].2014 ds ipkr ik= gksus okys vH;FkhZ ch,IVhlh ikB~;e esa izosk gSr.ik= ugha gksaxsA ikB~;e esa izosk gSr.ik= ugha gkSr.gq, Hkh vH;FkhZ fdlh izdkj dkWmUlfiyax esa Hkkx ysdj ;fn izosk izklr djus esa Hkh IQy gks tkrk gS rks ,sls vH;FkhZ dh vik=rk dk fdlh Hkh Lrj ij irk yxus ij bl dk;kZy;@IEcfU/kr egkfo| ky;@iath;d].fk{kk foHkkxh; ijh {kk,Wa].jktLFkku].chdkusj dks mlds ch,IVhlh ikB~;e esa vLFkbbZ izosk dks fujLr djus dk vf/kdkj gksxk ,oa mlds }kjk tek IEiw.kZ 'kqYd jkfk tCr dj yh tkosxhA^ From bare perusal of marksheet Annex.1 it is amply clear that petitioner has not succeeded in Senior Secondary (Arts) Examination, and therefore, he has not acquired the requisite eligibility for participating in the counseling.

As per marksheet Annex.1, the petitioner has been awarded supplementary in optional subject History for which he has applied for retotaling.

Well it is true that petitioner has applied for retotaling of his marks in optional subject History, the fate of which is dependent on declaration of result by the Board of Secondary [6].Education, Ajmer.

However, it is not possible to draw an inference that in view of this contingency Clause 4 of the notification dated 10th of March 2014 is bad in law.

A peculiar situation which has arisen in petitioners case cannot be cited as a reason to declare Clause 4 of the advertisement dated 10th of March 2014 as arbitrary and unreasonable.

In the Notification dated 10th of March 2014, it was envisaged with clarity and precision that incumbent aspirant for admission in BSTC CouRs.is required to acquire eligibility at the time of counseling.

The same condition is incorporated in the subsequent counseling notification dated 6th of June 2014.

If the petitioner has not acquired requisite eligibility at the time of counseling, it is obviously not possible to permit him to participate in the counseling.

At present, as per marksheet Annex.1, the petitioner is ineligible for admission in BSTC Couse as he has not qualified the requisite examination for acquiring eligibility.

It is trite law that prescribing eligibility and the cut-off date for acquiring eligibility is the sole prerogative of the authority competent for conducting the examination.

There is rationality behind prescribing eligibility condition and same cannot be questioned on fliMs.pretext by citing astray examples like case of the petitioner.

Simply [7].because a particular clause has resulted in some hardship to an individual, the same cannot be declared null and void nor it can be categorized as arbitrary and unreasonable within the four corners of Article 14 of the Constitution.

On examining the matter in its entirety, in my considered opinion, the writ petition preferred by the petitioner is bereft of any merit and devoid of force.

Resultantly, the writ petition is dismissed summarily.

(P.K.LOHRA),VJ.

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