

Sumitra Vs. State and Ors

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Court : Rajasthan Jodhpur

Decided On : Nov-27-2015

Appellant : Sumitra

Respondent : State and Ors

Judgement :

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR :

ORDER

: S.B.CIVIL WRIT PETITION NO.13325/2015 Sumitra versus State of Rajasthan & ORS.Date of Order :: 27.11.2015 PRESENT HON'BLE Mr.JUSTICE ARUN BHANSALI Mr.Deepak Bishnoi) for the petitioners.Mr.Rishabh Tayal for) for the respondents.

Mr.K.L.Thakur, AAG) ---- BY THE COURT: Heard learned counsel for the parties.

The petitioner applied for the post of Auxiliary NuRs.Midwife pursuant to the Advertisement dated 26.02.2013 (Annex.-5) with her qualification, inter alia, as Adeeb from Jamia Urdu, Aligarh.

The respondents have issued order dated 05.10.2015 indicating the general instructions as well as the basis for issue of amended interim (Provisional Select List) (Annex.-8).The petitioner is aggrieved by the stipulation contained in para-4(B) and (C).wherein it has been stated that those applicants, who had applied based on educational qualification i.e.Adeeb and Adeeb-e-Mahir from Jamia, they

have not been included in the list and the list is being published in view of judgment of this Court at Jaipur Bench in S.B.Civil Writ Petition No.13731/2014.

It is submitted by learned counsel for the petitioner that the judgment, which has been relied on by the respondents for the purpose of debarring candidates like the petitioner i.e. Snehlata v.

State of 2 Rajasthan & Ors.: S.B.Civil Writ Petition No.13731/2014, decided on 27.01.2015, proceeds solely on the basis of a Division Bench judgment in the case of State of Rajasthan & Ors.v.Firdos Tarannum : 2006(2) WLC (Raj.) 596, and the said judgment in the case of Firdos Tarannum (supra) itself requires reconsideration, inasmuch as, the said judgment only proceeds on the basis of two communications, which have been noticed in para-5 and 6 of the said judgment without dealing with other important aspects of the matter and, therefore, the condition and/or the guidelines under which the select list has been issued by the respondents cannot be sustained.

A further submission has been made that after the Advertisement was issued in year 2013, the respondents could not disqualify the petitioner by issuing the order in the year 2015 by the impugned order.

Learned counsel for the respondents-State relied on a series of judgments including judgment in the case of Firdos Tarannum (supra).Sunita Singh & Ors.v.Board of Secondary Education & Anr.: S.B.Civil Writ Petition No.8864/2011, decided on 22.09.2011, Deepak Kumar Meena v.

Board of Secondary Education & Anr.: D.B.Civil Special Appeal (Writ) No.1942/2011, Snehlata (supra) and Seema & Ors.v.State of Rajasthan & Ors.: S.B.Civil Writ Petition No.1672/2015, decided on 02.02.2015.

It is submitted that the respondents have passed the order based on the settled position of law and, therefore, it is not open for the petitioner to question the validity of such stipulation and action of the respondents and, therefore, the writ petition deserves to be dismissed.

3 I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

This Court way back in 2006 in the case of Firdos Tarannum (supra).decided the controverRs.as under:- 20.

In that light of the matter, it is considered that the petitioner who has acquired Urdu qualifications issued by Zamiya Urdu, Aligarh, possesses a qualification which is not a qualification awarded by an Institution which had a legal sanction behind it, therefore, the same is not available for the purpose of employment in the State of Rajasthan.

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In view of the aforesaid discussion, we are of the opinion that the degrees issued by the Zamiya Urdu, Aligarh would be hit by the orders of the Central Government and that of the State of Rajasthan whereby the Degrees and Certificates issued by such Institution which are not established under the law are not recognized for the purposes of appointment.

In that view of the matter, the judgment of he learned Single Judge deserves to be set aside.

The writ petition consequently, is also dismissed.

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Whereafter, repeatedly determination have been made by this Court based on the law laid down in the case of Firdos Tarannum (supra) as the persons, who have acquired qualification of Adeeb and Adeeb-e- Mahir have been repeatedly attempting to seek recognition and/or equivalence with secondary/senior secondary of the said qualifications, however, the view of this Court has been consistent.

The last being the judgment in the case of Snehlata (supra).wherein it was held as under:- The position which emerges from the contention of counsel for the petitioner on the one hand and that of the respondents on the other is that Jamia

Urdu Aligarh is not an institute which is established under the orders of the Central Government, State Government or University Grants Commission.

Therefore it has no authority to issue any degree/ certificate in respect of any course.

The State of Rajasthan as early as in the year 1991 has notified that certificate of qualifications from Jamia Urdu Aligarh would not render a candidate holding its 4 certificates/ degree eligible for appointment in the State of Rajasthan and by logic induction into in any couRs.in the state.

In my considered opinion, an error in the induction/ admission of the petitioner in the ANM couRs.pursuant to advertisement 2013 by the Director Medical and Health Services Nagaur would not confer any right upon the petitioner, protection whereof would be warranted in exercise of the equitable extraordinary jurisdiction of this court under Article 226 of the Constitution of India.

Aside of consideration of the application of the petitioner by the Chief Medical and Health Officer for her erroneous induction into the ANM course, it was the duty of the petitioner herself to ensure that she had the requisite qualifications for being admitted into the ANM training course.

Thousands, if not lakhs, of applications are filed for admission to various courses or for appointment.

The sheer volume is a prospect for the inadvertent inevitable human error.

Hence aside of the obligation of the admitting college/ institutions it is also the students/ candidates' duty to self assess honestly and bonafidely.

An error cannot be the foundation of a legal right and trump the requirement of eligibility.

Since the petitioner was wrongly inducted into the ANM couRs.on the basis of a Adeeb-e-Mahir certificate issued by an unauthorised institute Jamia Urdu Aligarh, she is not entitled to continue in the ANM course.

Further in the context of lack of material facts for setting up a case based on discrimination, the case set up and arguments advanced on that count only deserve to be noticed to be rejected.

In the facts and circumstances of the case, I find no force in the writ petition and the same is dismissed.

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The emphasis of learned counsel for the petitioner has been that the judgment in the case of Firdos Tarannum (supra) itself requires reconsideration.

The said plea sought to be raised by learned counsel for the petitioner, cannot possibly be countenanced by this Court as the Division Bench judgment and other series of judgments as cited hereinbefore are binding on this Court.

The remedy of the petitioner lies somewhere else and not in filing the present writ petition for seeking reconsideration of the view taken in the case of Firdos Tarannum (supra). So far as the submissions made by learned counsel for the petitioner regarding the validity of the order (Annex.-8) after the 5 Advertisement issued in the year 2013 is concerned, the same is equally baseless as merely because in the Advertisement issued by the respondents, the petitioner was not debarred, it is not expected of the respondents to grant appointment to such petitioner, who is otherwise disqualified on account of law laid down by this Court.

In view of the above, the stipulation made by the respondents regarding the qualification of the petitioner cannot be faulted.

Consequently, there is no substance in the writ petition, the same is, therefore, dismissed.

(ARUN BHANSALI).J.

PKS-31

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