

Ram Bachan Ram Vs. State of Rajasthan and ors.

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Court : Rajasthan

Decided On : Apr-24-2003

Reported in : 2003(3)WLC229; 2003(3)WLN28

Judge : Sunil Kumar Garg, J.

Appeal No. : S.B. Civil Writ Petition No. 139 of 2000

Appellant : Ram Bachan Ram

Respondent : State of Rajasthan and ors.

Disposition : Petition allowed

Judgement :

Sunil Kumar Garg, J.

1. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner on 11.1.2000 against the respondents with the prayer that by an appropriate writ, order or direction, the respondents be directed to appoint the petitioner as a Teacher Gr. III in pursuance of the office order dated 11.1.1999 (Annex.7) passed by the District Establishment Committee, Zila Parishad, Bikaner by which he was selected and allotted Panchayat Samiti, Nokha and it was further prayed that the show cause notice dated 6.4.1999 (Annex.8) issued by the respondent No. 4 Chief Executive Officer, Jila Parishad, Bikaner, be quashed and

set aside.

2. The case of the petitioner as put forward by him in this writ petition is as follows:

The petitioner is Meghwal by caste and is a member of the Scheduled Caste and under the law, he is entitled to reservation in providing employment. A copy of the caste certificate is marked as Annex.1.

The petitioner is MA, B.Ed. (Siksha Shastri) and thus, eligible to seek employment as Teacher Gr. III. Copies of the certificate of High School Supplementary Examination, 1978, Intermediate Certificate, 1980, Mark-sheet of MA (Sociology) and Mark-sheet of Siksha Shastri (B.Ed. examination) are submitted and marked as Annex.2, 3, 4 and 5 respectively.

The further case of the petitioner is that the District Establishment Committee, Zila Parishad, Bikaner issued advertisement No. 1/96 for selection of Teachers Gr. III, a copy of which is marked as Annex.6 and in that advertisement Annex.6, total 220 vacancies were advertised and for members of the Scheduled Caste, 16% reservation was provided and the last date for submission of applications was 29.2.1996. In pursuance of the said advertisement Annex.6, the petitioner being eligible applied for the post of Teacher Gr. III.

Thereafter, the petitioner was interviewed and after necessary interview etc., he was selected and appointed as Teacher Gr. III and was allotted Panchayat Samiti, Nokha through office order Annex.7 dated 11.1.1999 passed by the District Establishment Committee, Zila Parishad, Bikaner. But, he was not given the posting.

The further case of the petitioner is that after three months of the passing of the appointment order Annex.7 Chief Executive Officer, Zila Parishad, Bikaner through show cause notice Annex 8 dated 6.4.1999 informed the petitioner that in his certificate of secondary examination, there was no English subject and for appointment as Teacher Gr. III, English subject is must and therefore, he was asked why his name should not be deleted from the select list and he was asked to reply upto 21.4.1999.

A reply to the show cause, notice Annex.8 was submitted by the petitioner through Annex.9 stating inter-alia that the secondary examination certificate issued by the Uttar Pradesh Secondary Education Council was treated as equivalent to the secondary examination of the Secondary Board of Education, Rajasthan and, therefore, he was entitled to get appointment as Teacher Gr. III and furthermore, English was not compulsory subject in the high school examination of Uttar Pradesh Secondary Board. Apart from this, since the only qualification mentioned in advertisement Annex.6, was passing of secondary examination and there was no mandatory condition that a candidate should have English subject in his secondary examination, therefore, in these circumstances, denial of appointment to the petitioner on the post of Teacher Gr. III on the ground that he was not having English subject in the secondary examination, is arbitrary and violative of Article 14 of the Constitution of India and a legal right has accrued in favour of the petitioner. Hence, this writ petition with the prayers as stated above.

A reply to the writ petition was filed by the respondents and it has been averred by the respondents that since the petitioner was not having English subject in his secondary examination, therefore, he was rightly denied appointment to the post of Teacher Gr. III as under Rule 266(3)(i) of the Rajasthan Panchayati Raj Rules, 1996 (hereinafter referred to as 'the Rules of 1996'), English was one of the compulsory subjects. Hence, the writ petition filed by the petitioner be dismissed.

3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and gone through the materials available on record.

4. It may be stated here that the Rules of 1996 on which reliance has been placed by the respondents, came into force with effect from 30.12.1996, and the applications for the posts of Teachers Gr. III were invited through Annex.6 and the last date for submission of applications was 29.2.1996. Thus, on the last date of submission of applications, the Rules of 1996 were not in force.

5. There is also no dispute on the point that the qualification, which was mentioned in the advertisement Annex.6, was only that a candidate should have passed Secondary Examination from Rajasthan Board of Secondary Education or any

other equivalent examination from any other Board of Secondary Education recognized by the Rajasthan Board of Secondary Education or Education Department and there was no mandatory condition mentioned in the advertisement Annex.6 that a candidate should have English subject in his secondary examination.

6. There is also no dispute on the point that the petitioner has passed the secondary examination from Uttar Pradesh Secondary Education Council, which was treated equivalent by the Secondary Board of Education, Rajasthan.

7. There is also no dispute on the point that in the Rules prevailing upto 29.2.1996 (the last date for submission of applications), English was not one of the compulsory subjects in the secondary examination.

8. Thus, looking to the entire facts and circumstances of the case, since the only qualification mentioned in the advertisement Annex.6 was passing of secondary examination and there was no condition of having English subject in the secondary examination and in the Rules prevailing on the last date of submission of application i.e. on 29.2.1996, English was not one of the compulsory subjects in the secondary examination and the Rules of 1996 in which English was one of the compulsory subjects and on which reliance was placed by the respondents came into force on 30.12.1996 (i.e. after issuance of advertisement Annex.6 and the last date for submission of applications), therefore, in these circumstances, in terms of advertisement Annex.6, the petitioner was having requisite qualification for the post of Teacher Gr. III as he has passed the secondary examination from Uttar Pradesh Secondary Education Council and denial of appointment to the petitioner on the ground that he was not having English subject in his secondary examination as provided in Rule 266(3)(i) of the Rules of 1996, is arbitrary and violative of Article 14 of the Constitution of India as on the date of issuance of advertisement Annex. 6 and on last date of submission of applications i.e. 29.2.1996, the Rules of 1996 were not in force.

9. For the reasons stated above, since the denial of appointment to the petitioner on the post of Teacher Gr. III is arbitrary and violative of Article 14 of the Constitution of India and a legal right has accrued in his favour, therefore, the

petitioner is entitled to relief under Article 226 of the Constitution of India and this writ petition deserves to be allowed.

Accordingly, this writ petition filed by the petitioner is allowed and the show cause notice dated 6.4.1999 (Annex.8) issued by the respondent No. 4 Chief Executive Officer, Zila Parishad, Bikaner is quashed and set aside and the respondents are directed to give appointment to the petitioner on the post of Teacher Gr. III in pursuance of his selection through office order dated 11.1.1999 (Annex.7) passed by the District Establishment Committee, Zila Parishad, Bikaner from the date when his juniors were given appointment, within three months from today. However, it is made clear that the petitioner shall not be entitled for the emoluments of the post for the past, but, he would be entitled to claim seniority over the persons, who were lower in merit, but have been offered appointment prior to him.

No order as to costs.

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