

Ruby Akhtar Vs. State and ors.

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SooperKanoon Citation : sooperkanoon.com/901016

Court : Jammu and Kashmir

Decided On : Jul-11-2007

Reported in : 2008(1)JKJ130

Judge : Bashir A. Kirmani, J.

Appellant : Ruby Akhtar

Respondent : State and ors.

Judgement :

Bashir A. Kirmani, J.

1. Petitioner's case is that despite having applied for her engagement as Anganwadi Helper in the centre of Uttersoo Nijigund, District Anantnag and being fully eligible in terms of criterion, she has not been considered for engagement even though the sanctioned centre is to be located in her residential house which gives her additional weightage in terms of the policy. Accordingly she seeks her engagement to the exclusion of private respondent No. 5 who according to her is not eligible in terms of prescribed criterion. In reply Mr. Attar appearing for said respondent as supported by the Government counsel Mr. Wani states that respondent No. 5 is fully-eligible in terms of prescribed criterion and actually petitioner suffers from ineligibility for the fact of not being a middle pass, the basic qualification required. It is also stated at bar that matter was previously agitated by respondent before Sub-Judge, Anantnag who settled the same in Lok Adalat on

agreement of 5th respondent and officials with direction for her consideration alongwith petitioner in terms of rules holding the field, to which currently none of the parties objects.

2. In given gamut of circumstances as catalogued above, the petition is of course with agreement of appearing counsel disposed of with an observation that respondent/authorities shall consider petitioner, 5th respondent and all other eligible candidates for engagement against the available position of Anganwadi Helpers in accordance with rules after due verification of the certificates pertaining to age, academic qualification and residence et., and conclude the whole exercise without any undue loss of time.

3. Even while the petition in hand gets disposed of thus, two vital questions arise which somehow required to be considered.

i. First, whether and why it should be necessary for respondent/department to house the Angwawadi centers in private residential houses and give extra weightage to the owner in matter of engagement which must ordinarily be reducing the entire thing to a family affair of the incumbent, directly resulting. in malfunctioning and why can't the department think of housing these Anganwadi centers in Government school buildings of the areas or the Panchayat Ghar where there is one; which in addition to discarding the apparently undue weightage attached with providing accommodation for it, would perhaps also assure some sort of overseeing by head of the school under a proper administrative arrangement between concerned departments to assure effective regulation for which the concerned department requires to consider some policy decision.

ii. Second question that surfaces for consideration is reference of litigation pertaining to public employment by subordinate courts top Lok Adalats. It has been noticed that frequently the subordinate courts refer such cases to Lok Adalat and settle many of them either between one of the contenders and the officials, or two contenders inter se, without even others eligible having any knowledge of the litigation. This phenomenon appears to be conspicuous in the matters of engagement of 'Rahbar-i-Taleem' under SSA and Anganwadi workers/Helpers under the scheme, mostly before and sometimes after the posts are subjected to

the process of regular selection sometimes even before the proper advertisement. On the face of it the practice appears to suffer inherent defect because litigation essentially results in final adjudication whoever the mode, between contesting parties to the exclusion of others, while matters pertaining to public employment, before conclusion of an advertised selection process can and should not be restricted to contesting litigants only, as that automatically excludes all other eligible persons who could otherwise claim candidature thereto. In addition consideration of these matters in Lok Adalats in above narrated circumstances also renders the process amenable to mischievous manipulations by parties whether private or official, by forging secretive understanding/arrangements to induce predesigned settlements by Lok Adalat, converting the institution into a ready made tool in hands of mischief mongers.

4. Accordingly while disposing of the petition the following directions/observations are made:

a. The respondent/department may consider formulation of a policy for housing Anganwadi centers in Government schools/Panchayat Ghars of the area wherever available vesting the controlling official of that particular Institution with some sort of responsibility to regulate/over see the functioning of the centre.

b. The Subordinate Civil Courts shall desist from referring the litigation public employment to Lok Adalat much less to decide any of them through an award passed thereunder.

c. Copies of this order be communicated to the authorities of respondent/department and all Principal/District Judges for onward transmission to their subordinate officers.

Disposed of.