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Fullora Ghosh Vs State of Jharkhand and Others

Writ Petition (S) . No. 7435 of 2012

Court: Jharkhand High Court

Date of Decision: Oct. 22, 2013

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: D.C. Mishra, for the Appellant;

Final Decision: Dismissed

Judgement

Aparesh Kumar Singh, J.

Heard counsel for the parties. Petitioner is seeking quashing of the selection of respondent no. 7, Smt. Chaina

Mandal dated 12.9.2012 as made by the respondent no. 6, the Child Development Project Officer, Kundahit.

2. It is the case of the petitioner that the selection for appointment of Aanganwari Sevika for Chhetagovindpur Centre was undertaken in the

selection meeting held on 12.9.2012. The petitioner possessed the residential certificate vide Annexure-2 granted by the Circle (Officer, Kundahit

dated 16.3.2012 and belongs to Backward Community in support of which Annexure-3, the Caste Certificate is annexed with the writ petition.

According to the petitioner her income is Rs. 41,000/- per annum as per the certificate granted by the Circle Officer, Kundahit dated 21.3.2012

(Annexure-4). She comes within the category of below poverty line family and living jointly with her father-in-law who is mukhia of the said village.

Petitioner has passed the Matriculation Examination securing second division from West Bengal Board of Secondary Examination and has also

passed the Intermediate Science securing second division from the Jharkhand Academic Council, Ranchi, which are annexed as Annexure 6 and 7

respectively.

3. It is the case of the petitioner that at the time of making her application she had submitted B.A. Part I marks for being considered for

appointment as Aanganwari Sevika, which is annexed as Annexure-9. However, in the said selection exercise the respondent no. 7, who is

Intermediate in Arts has been selected and appointed while the petitioner being the candidate having Intermediate in Science qualification has been

refused selection. It is submitted by learned counsel for the petitioner that the respondents ought to have considered the B.A. Part I qualification of

the qualification in the matter of selection which could have accorded preference to her above the private respondent no. 7. It is also submitted that

the Intermediate of Science candidate should have been given preference and as per the scheme evaluation of marks ought to have been done on

the basis of Metric qualification in which petitioner would have certainly succeeded.

4. Learned counsel for the respondent-State have stated in their counter affidavit that the petitioner and the private respondent no. 7 were having

the qualification of Intermediate in Science and Arts respectively. The Aam Sabha after consideration of the rival cases of the candidates found that

the marks obtained by the private respondent no. 7 is 276 as per her Intermediate Examination result while the petitioner obtained 250 marks in

her Intermediate Examination. It is further submitted that the petitioner"s father-in-law is himself a Para Teacher and was present in the meeting and

signed on the minutes of the proceedings of the Aam Sabha held on the same date. Learned counsel for the Respondent-State submitted that the

petitioner did not produce the B.A. final certificate hence the B.A. Part I pass was not considered as higher qualification as per law. In such

circumstances, there is no illegality in the appointment process.

5. I have heard counsel for the parties at length and gone through the relevant materials on record. In the present case as have been recorded

herein above the petitioner at the time of making her application vide Annexure-9 had produced B.A. Part I pass certificate. The petitioner as well

as private respondent no. 7 were both having Intermediate qualification in the subject of Science and Arts. The Aam Sabha considered the cases

of both the candidates and found that the private respondent no. 7 had secured 276 marks in Intermediate Arts Examination while the petitioner

had secured 250 marks in the Intermediate Science Examination. Since the petitioner had stake her claim on the basis of passing of B.A. Part I, the

same could not be considered as higher qualification for giving preference to the petitioner above Private respondent no. 7. Petitioner has also not

been able to show that Intermediate of Science candidate is required to be given preference over that of Intermediate of Arts candidate in such

scheme for which Aanganwari Sevika is appointment. The scheme which has been relied upon by the petitioner does not show that any such

preference is accorded to the Intermediate Science candidate. Both the candidates were having the same qualification of Intermediate, therefore

the one who had secured higher marks was selected by the Aam Sabha as would appear from the minutes of the proceeding contained at

Annexure-10. In such circumstances, petitioner has failed to make out a case for interference in the selection of the private respondent no. 7.

Accordingly, the writ petition being devoid of merit is dismissed.