

(2013) 10 JH CK 0036

Jharkhand High Court

Case No: Writ Petition (S) . No. 7435 of 2012

Fullora Ghosh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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.