



Serial No. 22
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 224 of 2023

Date of Decision: 02.07.2024

Miss Baphyllashisha L. Mawlong
D/o Smti Bibitalin L. Mawlong
R/o Mairang, Eastern West Khasi Hills
District, Meghalaya

:::Petitioner

-Vs-

1.State of Meghalaya, represented by the
Chief Secretary, Government of Meghalaya,
Shillong

2.Director of School Education & Literacy,
Meghalaya, Shillong

3.Sub-Divisional School Education Officer,
Mairang

:::Respondents

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. S. Malngiang, Adv.

For the Respondent(s) : Mr. H. Kharmih, Addl. Sr. GA.



i)	Whether approved for reporting in Law journals etc.:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER (ORAL)

1. The writ petitioner is before this Court with a prayer for recall of the cancellation of the petitioner's selection to the post of Assistant Teacher and also for setting aside the impugned inquiry report dated 15.03.2021.

2. The brief facts are that pursuant to an advertisement dated 09.06.2020, wherein 54(fifty-four) vacant posts were to be filled up, the petitioner had applied for the same, and by select list dated 04.02.2021, was placed at No. 12 thereof. However, the petitioner was not afforded appointment, which caused her to file a representation before the respondent No. 2.

3. Mr. R.S. Malngiang, learned counsel for the petitioner has strenuously argued that the petitioner having been allowed to appear in the interview along with all the documents, and having figured in the select list, the denial of appointment is arbitrary and illegal. It is further submitted that the writ petitioner had obtained D.El.Ed passed certificate on 08.04.2021, and as such, at the time of interview which was held some time on December 2020, the petitioner not being in possession of the same could not



produce it, which is the reason for rejection of her candidature. It is further submitted that the non-production of certificate was due to circumstances beyond the control of the writ petitioner, and as such, the denial of appointment on the ground that the said certificate had not been produced is unjustified. He therefore prays that directions be issued and some consideration be given by the respondents to afford her appointment as an Assistant Teacher.

4. Mr. H. Kharmih, learned Addl. Senior Government Advocate appearing for the State respondents has submitted that the petitioner should not have been called for the interview, inasmuch as, on the date of application, she did not possess the certificate. Attention has been drawn to the Advertisement Notice dated 09.06.2020, wherein it is given that D.El.Ed passed certificate is compulsory. He further submits that the petitioner for not having obtained the certificate before the date of interview, should not have been issued a call letter at all, and in this regard an inquiry was conducted, wherein the case of the writ petitioner and also of another candidate was examined, and recommendation was issued for cancellation or withholding of the results of the said candidates. He therefore submits that the advertisement being clear in its requirement and an inquiry having revealed that there was some anomaly in the conduct of the interview, no case is made out for any interference by this Court.



5. Having heard the learned counsel for the parties, a perusal of the advertisement dated 09.06.2020, reveals that D.El.Ed passed certificate was compulsory apart from other requirements. It is also seen that by the call letter issued to the writ petitioner dated 03.12.2020, she was instructed to bring all related documents in original at the time of interview. The petitioner however, not being in possession of the said certificate was unable to produce the same, but however, for reasons best known was placed in the select list. The inquiry report which is impugned has also been perused and it reflects that anomalies were detected in the selection process. The pandemic situation as has been urged by the writ petitioner as one of the factor for non-possession of the certificate was taken into consideration. Para-5, which is relevant is extracted and reproduced herein below.

“5. It was reported that the SDSEO Office had accepted application from June 2020 onwards and had then accepted the applications from candidates without D.El.Ed certificate but had completed the course and awaiting result but are MTET qualified. Further, it was stated that there were 150 applications and 2 are without D.El.Ed certificate. Therefore, taking into consideration the pandemic situation in the State resulting to delay in the declaration of results and distribution of certificates, the Selection Board decided to allow these candidates subject to production of certificate when appointment is issued.”



6. It is apparent that though the advertisement has strictly stipulated the necessary requirements of eligibility, relaxation over and above the same, had been accorded to the writ petitioner to produce the D.El.Ed. certificate at the time of interview, which however were not fulfilled by the writ petitioner at that point of time. The inquiry that had been gone into, also does not reflect any biasness or any irregularity, inasmuch as, the facts that has been placed have been dealt with in a very transparent manner.

7. It is further noticed that subsequent to this selection, a fresh advertisement had then been issued, wherein the last date of submission of the forms was on 31.08.2023, with the same requirements as earlier. The said selection was also concluded and the results were declared as far back as on 14.12.2023, and it has been submitted by the learned Addl. Senior Government Advocate that the post for which the petitioner applied for has also been re-advertised, and is part of the select list dated 14.12.2023.

8. In this backdrop of facts and circumstances, though the writ petitioner may now possess the certificate, however due to fate and circumstances, the same could not be produced at the time of application, or at the time when the interview was held, and as the selection process had since concluded, though her name appeared in the select list, however, as per inquiry report her candidature was not up for consideration any longer.



9. In this view of the matter, and also the fact that no vested right has accrued to the petitioner by virtue of her name appearing in the select list, and also in view of the other factors that have been in play, no relief can be afforded to the writ petitioner on her prayer, and the writ petition is accordingly closed and disposed of.

Judge

Meghalaya
02.07.2024
"D.Thabab-PS"

DARIHUN
THABAH

Digitally signed by
DARIHUN THABAH
Date: 2024.07.02
17:30:04 +05'30'