

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP (227) No. 6039 of 2011

- Jiveshwari Chandra, Daughter of Chandra, aged about 33 years, R?o Purani Basti, Kharsiya, Post Kharsiya Distt. Raigarh (C.G.)

---- Petitioner

Versus

- The Commissioner, Bilaspur Division Bilaspur (C.G.)
- Director, Panchayat and Social Welfare, Chhattisgarh Raipur (C.G.)
- Chief Executive Officer, Zila Panchayat, Raigarh, District Raigarh (C.G.)
- CG Professional Examination Board, Raipur Through its Secretary, Raipur (C.G.)

---- Respondent

For Petitioners	Mr. F.S. Khare, Advocate
For Respondent/State	Mr. Bhaskar Pyasi, Panel Lawyer
For Respondent No.3	Mr. Pawan Shrivastava, Advocate
For Respondent No. 4	Dr. Saurabh Pandey, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

23/06/2015

Heard.

2. This writ petition has been filed by the petitioner, who claims to be belonging to Handicapped Category, as she is suffering from visual as well as hearing impairment.

3. Indisputably, the petitioner appeared in the recruitment of Shiksha Karmi Grade-II conducted by the Jila Panchayat, Raigarh in the year 2008.

However, she could not be selected as against the seat reserved for handicapped person.

3. Learned counsel for the petitioner would submit that the petitioner's visual and hearing impairment was not considered to be sufficient to bring her within the definition of physically handicapped person, therefore, she has not been selected despite the Circular dated 16.06.2008 issued by the State Government directing all the CEOs of Jila Panchayats and Janpad Panchayats to treat visually handicapped persons within the Handicapped Category. He would further submit that while deciding the appeal of the petitioner, the Commissioner, Bilaspur Division, Bilaspur has not at all addressed to the Circular issued by the State Government.

4. It appears that the petitioner had also appeared in the selection process conducted in the year 2006, but could not be selected. The Commissioner, Bilaspur Division was dealing with two appeals preferred by the petitioner, first one against her non-selection in the year 2006 and the second one against her non-selection in the year 2008. In the year 2006, the petitioner was not selected as, according to her, the principles of reservation vis-a-vis horizontal and vertical, was not properly and appropriately applied. While deciding her appeal concerning the recruitment in the year 2006, the Commissioner passed the impugned order and at the end it is observed that the matter being similar, the appeal arising out of recruitment process of the year 2008, shall also be governed by the same impugned order.

5. When the recruitment took place in the year 2006, the Circular dated 16.06.2008 was not in existence. Even otherwise, the appeal filed against the recruitment process of 2006 was on different ground.

6. In view of the above, since the Commissioner has not passed separate

order in the appeal preferred by the petitioner challenging her non-selection in the recruitment conducted in the year 2008, the matter is remitted back to the Commissioner, Bilaspur Division for consideration afresh on its own merits.

7. However, it is made clear that this Court has not expressed any opinion on the merits of the case and the Commissioner shall decide the appeal of the petitioner on its own merits. The Commissioner shall pass a fresh order after hearing all the parties within a period of 4 months from the date of submission of certified copy of this order.

8. Accordingly, the writ petition is disposed of.

Sd/-
(Prashant Kumar Mishra)
JUDGE

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