

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.18521 OF 2009

ORDER:

Heard Mr.S.M.Subhan for petitioner and Mr.Gopal for respondents.

The petitioner prays for Mandamus declaring the action of respondents in not selecting petitioner for the post of Conductor on contract basis in Guntur District in spite of petitioner securing 82.6% marks pursuant to call letter/notification No.P2/684(04)/2008-RM(G) dated 28.01.2009, as illegal and unconstitutional.

The circumstances under which the present writ petition is filed are in dispute to a very limited extent. The disputed circumstances are that the petitioner claims to be a native of Narsaraopet Village/Mandal, Guntur District and that the petitioner satisfies the conditions imposed by the instant notification for recruiting Conductors on contract basis. The relevant condition reads as follows:

“Residential Certificate issued by Tahsildar/M.R.O. (showing above 4 years of residence in Guntur District).”

The respondents filed counter affidavit and it is categorically stated that the petitioner does not belong to Guntur and thereby does not satisfy requirement of notification dated 28.01.2009. According to respondents, the petitioner is a native of Prakasam District.

Mr.Subhan contends that the understanding of community, nativity and date of birth certificate dated 22.12.2008 by the respondents is completely erroneous and illegal. He draws the attention of the Court to the certificate and contends that for all purposes the petitioner shall have to be treated as a native of Guntur and under the quota meant for BC-E, the petitioner ought to have been appointed instead of successful candidate who has got 77.4%.

Mr.Gopal contends that the nativity certificate filed along with

the application and/or exhibited as Ex.P.3 in the writ petition does not in any way conform to the requirements of notification dated 28.01.2009. The nativity certificate dated 22.12.2008 on the face of it suffers from contradictions and contrary to the other documentary evidence produced by the petitioner. He submits that though this Court may not be examining details of application like a Court of Appeal, but even for the limited purpose of judicial review, it can be appreciated that the sentence as required in the notification namely "that the petitioner is resident of Guntur for four years, is absent" in the nativity certificate. Therefore, he prays for dismissal of the petition.

I have heard learned counsel and taken note of the respective submissions. As already noticed, there are no issues on the introductory facts pleaded by the petitioner and marks he secures in selection process. Now this Court has to consider whether the nativity certificate dated 22.12.2008 relied upon by the petitioner conforms to the conditions of eligibility for appointment in Guntur District. The requirement of notification is that the applicant is resident of Guntur District above four years. The nativity certificate relied upon by the petitioner admittedly is bereft of such certification by the Mandal Revenue Officer. On the contrary, place of birth and place of village are shown in the certificate and there is no explanation forthcoming on the 10th class certificate filed by the petitioner (Ex.P.2). According to 10th class certificate, the petitioner studied at Zilla Parishad High School, Pullalacheruvu, Prakasam District. I am of the view that the refusal to appoint the petitioner does not suffer from any infirmity or illegality. The petitioner failed to prove his case that he satisfied the conditions of the notification dated 28.01.2009. For the above reasons, the writ petition fails and is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:15.02.2016
Stp