

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 284 of 2016**

- Pitamber S/o Shri Paretan Sahu, Aged About 38 Years R/o Village & Post Mahuabhata, Post Mohgaon, Tehsil Saja, District Durg (Chhattisgarh).

---- Appellant**Versus**

- State of Chhattisgarh Through The Secretary, Department of Panchayat & Rural Development Mahanadi Bhawan, Mantralaya, New Raipur District Raipur (Chhattisgarh).
- The Collector, Durg District Durg (Chhattisgarh).
- The Chief Executive Officer, Janpad Panchayat Navagarh, District Durg (Chhattisgarh).
- District Education Officer, Bemetara, District Bemetara, (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Jitendra Pali, Advocate
For State	:	Shri A.S. Kachhawaha, Additional Advocate General

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per P. Sam Koshy, J.****28.04.2017**

1. The instant writ appeal has been preferred by the Appellant assailing the order dated 03.11.2015 passed in W.P.(S) No. 2206/2011 by the learned Single Judge.
2. The grievance of the Appellant is that he had applied for post of Shiksha Karmi Grade-III advertised by the Janpad Panchayat, Nawagarh on 12.12.2006. The Appellant's claim was that since he had discharged his duties as a teacher at the Government Primary School, Mahuabhata under the Janbhagidari school he should have been considered for the post of Shiksha Karmi Grade-III taking into consideration his experience. However, the candidature of the Appellant was refused by the respondents, leading to the filing of the writ petition.

3. The learned Single Bench while dismissing the writ petition held that there is no perversity on the finding of the Collector which was also affirmed by the Commissioner. It is also held that the documents which have been produced along with his candidature were found to be not genuine but fake. It is this judgment which is assailed by the Appellant in this appeal.
4. After hearing learned counsel for the Appellant as well as learned Additional Advocate General for the State at length and on perusal of the documents including affidavit filed by the District Education Officer, District Bemetara what is reflected is that the Appellant had worked at Government Primary School, Mahuabhata is not in dispute and his appointment was by virtue of a resolution passed by the Gram Panchayat. It also stands proved by the document Ex.AD/3 dated 19.06.2006, which would certify the discharge of duties by the Appellant. The said document has subsequently been cross-checked by the District Education Officer, Bemetara and who by his affidavit dated 27.04.2017 had accepted that the said document Ex.AD/3 is found to be genuine and the signatures on said document of the Block Education Officer, Saja, the Head Master of Primary School, Mahuabhata were also found to be true and correct.
5. The recruitment to the post of Shiksha Karmi was governed by the Chhattisgarh State Shiksha Karmi (Recruitment and Conditions of Service) Rules, 1997 (for short, the Rules, 1997). Clause-1 of Rule-5 of said Rules, 1997 enumerates the method of recruitment to the cadre of Shiksha Karmies and which was direct recruitment by selection as well as by promotion. Clause-9 of Rule-5 of Rules, 1997 deals with allotment of marks by the evaluation committee on scrutinizing the credentials of the candidates. It would be relevant at this juncture to refer to the sub-

clause (b) of clause-9 of Rule-5 of the aforementioned Rules, 1997, which reads as under:

“Maximum 12 marks for teaching experience in Shiksha Guarantee Scheme Center, Janbhagidari Schools, D.P.E.P. Alternative Schools, Non-formal Education Center, cent-percent aided State Government and in the village schools recognized by the Janpad Panchayat & Zila Panchayat on the following basis :

1. Experience of one year - 5 marks.
2. Experience of two years - 8 marks.
3. Experience of three years - 12 marks.

(Minimum of 8 months teaching session will be considered as one year).”

6. Further, from the document enclosed along with the instant appeal, an affidavit has been filed by the District Education Officer, District Bemetara, which has been marked as Annexure R/1. The document shows that services of the appellant was taken by the Gram Panchayat on the basis of which he has worked at the Govt. Primary School, Mahuabhata. The said document is a document signed by the Block Education Officer, Saja, Distt. Bemetara, Chhattisgarh and is also signed by the Headmaster of the Govt. Primary School, Mahuabhata, Saja, District Bemetara. In addition, there is also a copy of attendance register (Annexure AD/3) which shows the attendance of the appellant at the said school which again has been found to be genuine and proper and also bears signatures of Block Education Officer as well as the Headmaster of said school. All these facts proves the employment of the appellant at the Govt. Primary School.
7. If we read the provisions of sub-clause (b) of Clause 9 of Rule-5, it would clearly reflect that the teaching experience rendered even at cent percent government aided school has to be taken for the purpose of allotment of marks for the teaching experience.

8. In view of the fact that the District Education Officer himself accepted that the Appellant had worked at the Primary School, Mahuabhata on the basis of the resolution passed by the Gram Panchayat and he was also issued with a certificate of discharging the duties, it has to be considered that the Appellant had experience under the Janbhagidari school. The finding of the learned Single Judge that he had produced a forged and fake certificate for seeking employment is not proper. The said finding of the learned Single Bench therefore deserves to be interfered and is accordingly set aside to the extent that the Appellant has an experience of working as a teacher at Government Primary School, Mahuabhata.
9. As a consequence, the finding of the Collector vide Annexure-P/9 dated 02.12.2008 to the extent that the Petitioner does not have the experience of Janbhagidari is found to be incorrect and same is set aside. Likewise, Annexure-P-1 dated 22.02.2011 passed in Appeal by the Commissioner also stands set aside.
10. In view of the same, it is directed that the respondents shall consider the case of the Appellant for being appointed as Siksha Karmi Grade-III taking into consideration the experience to be one under the Janbhagidari school.
11. The writ appeal is accordingly allowed to the above extent.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge