

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.4619 of 2006

ORDER:

The case of the petitioner is that the first respondent issued a notification, which was published in New Indian Express Daily news paper on 09.11.2005, inviting applications from the eligible candidates for retail outlet dealership at Kurnool. In response to said notification, the petitioner along with seven others submitted applications and they were called for the interview. Petitioner attended the interview on 20.02.2006. But, she was not selected due to arbitrary action of the respondents in awarding marks. According to her, being a post-graduate in Bio-Technology, she is entitled for '15' marks against which only '12' marks were awarded to her. For experience, she was awarded '0' marks against '4' marks ignoring the experience certificate produced by her before the Committee. Petitioner was awarded '13.15' marks out of '20' marks against detailed sources of funds/ready availability of finances. The award of marks to the petitioner is not according to the mode of awarding marks prescribed in the brochure issued for selection of retail outlet dealer. The petitioner further states that the interview committee, contrary to the guidelines prescribed in the brochure of the respondent-Corporation, has awarded less marks under the categories 'experience', 'detailed sources of funds/ready availability of finances' and

‘educational qualifications’. If the interview Committee awarded the marks as per the procedure prescribed, the petitioner would have selected for the retail outlet dealership. But, the 4th respondent, who was awarded ‘80.74’ marks, was selected. Hence, this Writ Petition is filed questioning the appointment of 4th respondent as a retail outlet dealer of the first respondent-Corporation.

2. The first respondent filed a counter affidavit mainly stating that interviews were conducted on 20.02.2006, in pursuance to the notification dated 09.11.2005 for selection of candidates for appointment as retail outlet dealer at Kurnool. Petitioner has submitted a course completion certificate of M.Sc. Bio-Technology and as per the guidelines, the course is considered as post graduation and the petitioner was awarded ‘12’ marks against ‘15’ marks. Petitioner also submitted a work done certificate dated 05.12.2005 from Naresh Medical and General Stores, SBH road, Vanaparthi. The said certificate states that she has maintained a medical and general stores after completion of post graduation till the date of submission of the application. The marks were awarded based on furnished document. As per the documents furnished, she has completed her course of M.Sc. Bio-Technology, in May, 2005. As such, as on the date of application, the petitioner was not having one year experience. In view of the same, no marks were awarded to

the petitioner under 'business experience'. In respect of the marks with regard to 'sources of funds/ready availability of finances', the Selection Committee awarded '13.5' marks out of '20' marks. As per the guidelines, '20' marks is split as follows:

i) Liquid cash in the form of Bank, Fixed Deposits, etc.

- a) Rs.10 to 15 lakhs – 12 marks
- b) Rs.7 to 10 lakhs – 10 marks
- c) Rs.5 to 7 lakhs – 5 marks
- d) Rs.3 to 5 lakhs – 2 marks

ii) Fixed and movable assets:

Value of assets of Rs.10 lakhs and above will be awarded full marks i.e. 4 marks and for lesser values, the marks will be given proportionately.

iii) Income:

An income of Rs.3 lakhs per annum and above will fetch full marks i.e. 4 marks and for lesser income the marks will be awarded proportionately.

Thus, Based on the documents submitted by the petitioner, the Selection Committee had rightly awarded '13.5' marks to the petitioner. The petitioner had submitted only sale deed copies of various properties and no valuation report was submitted. For the purpose of assessment, the amount mentioned in the sale deed was taken as the valuation fixed for immovable assets. The petitioner had not submitted any proof of income or income tax returns in support of her claim for gross income during the last financial year in the application form. In view of the same, no marks were awarded by the selection committee. The petitioner has

submitted a letter stating that they were willing to extend financial assistance to the tune of Rs.15 lakhs. As such, she was given full '5' marks by the Committee for ensuring loan/credit worthiness. In respect of the age, date of birth of the petitioner is 28.01.1982 and she was 23 years old. As per the guidelines, she is entitled for '2' marks and the same has been awarded to her. Accordingly, the selection committee had rightly awarded marks. The first respondent further states that the 4th respondent was empanelled at Sl.No.1 by the selection committee. But, in pursuance to petitioner's complaint and also the complaint of one Sri Mahalakshmi, an enquiry was conducted. The Enquiry Officer after conducting enquiry submitted a report on 12.06.2006 stating that Sri Mahalakshmi should have been awarded one more mark for 'educational qualifications' since she had completed Ph.D. and under the experience she should have been awarded '3' marks instead of '1' mark. The 4th respondent was wrongly given '1' mark for experience though she has not submitted any experience certificate along with her application. In respect of petitioners' complaint, the Enquiry Officer held that the petitioner is entitled for additional '2.85' marks in respect of capability to arrange finance. As per the Enquiry Officer's report, rankings were given, according to which, Sri Mahalakshmi, who got '80.32' marks, stood at Sl.No.1, the 4th respondent, who got '77.97' marks, stood at Sl.No.2 and the petitioner, who got '74.15' marks, stood at Sl.No.3.

Further, in pursuance to the enquiry report, it was found that the 4th respondent herein has submitted a forged document and as such her selection was cancelled. The revised marks list was communicated to all the candidates by registered post on 29.05.2007 and Sri Mahalakshmi was given appointment as a retail outlet dealer at Kurnool as she stood at Sl.No.1 of the revised marks list. Since the petitioner has secured only '77.97' marks, she is not entitled for any selection.

3. Heard the learned counsel appearing for the petitioner as well as the respondents.

4. The counsel reiterated their pleadings, as stated supra. In those circumstances, it is seen from the material on record, in pursuance to the complaint made by petitioner and one Sri Mahalakshmi, an enquiry was conducted, marks awarded to the candidates initially were revised and the selection list was prepared as per the revised marks. According to the revised selection list, Sri Mahalakshmi, who secured highest marks of '80.32', was shown at Sl.No.1 whereas the petitioner got only '74.15' marks shown at Sl.No.3. Further, the selection of 4th respondent herein was cancelled as she produced forged document. In view of the same, it could not be held that there is illegality or arbitrariness in awarding marks of '74.15' to the petitioner

and rejecting her candidature for retail outlet dealership at Kurnool.

5. Further, in view of the revision of marks based on the enquiry report, the contention of the 4th respondent that she got highest marks of '80.74' marks, she is entitled to be appointed as a retail outlet dealer, and in view of the pendency of the writ petition, she could not appointed, has no force.

6. Therefore, the Writ Petition is dismissed.

7. Miscellaneous petitions pending in this writ petition, if any, shall stand closed.

M.GANGA RAO, J

29th December, 2017.
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