

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2743 of 2018

Rakesh Kumar S/o Raj Kumar, aged about 27 years, R/o village Pahanda, P.O.Mitthunawagaon, Block Kota, District Bilaspur (C.G.).

---- **Petitioner**

Versus

1. State of Chhattisgarh, Through Secretary, Department of Agriculture, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur (C.G.).
2. Director, Agricultural Department, State of Chhattisgarh, Raipur, District Raipur (C.G.).

--- **Respondents**

For petitioner	:	Shri Ajay Shrivastava, Advocate.
For State	:	Ms.Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/04/2018

1. Challenge in the present Writ Petition is to the order of appointment issued for the post of Rural and Agricultural Extension Officer in the handicapped quota. The petitioner had appeared in the said post and he was though eligible but his name was reflected in the list of ineligible candidates only on the ground that on the date of advertisement, the petitioner did not completed the degree course. The advertisement was issued on 02/03/2017. The petitioner had by then completed his course and had got the marksheet only on 17/03/2017. The last date for submission of the application form was 20/03/2017, that means the petitioner had obtained the marksheet before the last date of submission of the application form. The petitioner was permitted to participate in the selection process and he was also found eligible for

appointment as is reflected from Annexure-P/1 - the impugned order where the petitioner is shown to be ineligible on the ground that the petitioner has not completed his degree on the date of application.

2. The contention of the counsel for the petitioner is that the petitioner has applied for the post on 18/03/2017 and the last date for submission of the application was 20/03/2017. On the date of application, he had the marksheet of Graduation which was issued on 17/03/2017. He further submits that since in the advertisement, there was no cut off date so far as attaining of the educational qualification is concerned it has to be presumed that the cut off date under such circumstances would be the last date of filing of the application form which in the instant case was 20/03/2017 and before which the petitioner had obtained the marksheet. He further refers to the decision of the Hon'ble Supreme Court in the case of **Dipitimayee Parida v. State of Orissa & Ors. [2008 10 SCC 687]**. He also relied upon the decision of this Court in the case of **Sandeep Kumar Shrivastava & Anr. v. State of Chhattisgarh & Ors. (WPS No. 4829/2008 decided on 22/02/2010)** wherein also a similar view has been taken by this Court. He thus prayed that the case of the petitioner be also considered by the respondents treating the petitioner to be an eligible candidate for the post of Rural Agricultural Extension Officer.

3. He further submits that, the respondents in the case of an identically placed person i.e. one Sahadev Kumar Sahu whose name also was reflected in the list of ineligible candidates as is reflected from Annexure-P/1 at Sr.No.14, but the respondents have granted an order of appointment to

the said person and therefore the petitioner also being identically placed is entitled for being considered for appointment on the said post.

4. At this juncture the learned State counsel submits that let direction be issued to the respondent No.2 in the instant case to scrutinize the case of the petitioner also in the light of the aforesaid judgments of Supreme Court and also taking note of the facts and circumstances in which similarly placed person Sahadev Kumar Sahu has been appointed.

5. Given the aforesaid facts and circumstances, it would be relevant at this juncture to refer to the judgment of the Supreme Court in the case of Dipitimayee Parida (Supra) wherein the Supreme Court in paragraph 16 relying upon its earlier decision in the case of **Rekha Chaturvedi v. University of Rajasthan & Ors.** [1993 Supp. (3) SCC 168] has held as under:-

“16. Even otherwise, ordinarily the qualification or extra-qualification laid down for the recruitment should be considered as on the last date for filing of the application. This has been so held in **Rekha Chaturvedi v. University of Rajasthan & ors.** [1993 Supp. (3) SCC 168], stating:

"The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they

are qualified for the posts in question or not, if they are yet acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. We have, therefore, no hesitation in holding that when the Selection Committee in the present case, as argued by Shri Manoj Swarup, took into consideration the requisite qualifications as on the date of selection rather than on the last date of preferring applications, it acted with patent illegality, and on this ground itself the selections in question are liable to be quashed."

6. A similar view has also been taken by the Supreme Court in the case of **Ashok Kumar Sonkar v. Union of India & Ors. [2007 4 SCC 54]**

wherein in paragraph 20, the Supreme Court has held as under:-

“20. Possession of requisite educational qualification is mandatory. The same should not be uncertain. If an uncertainty is allowed to prevail, the employer would be flooded with applications of ineligible candidates. A cut-off date for the purpose of determining the eligibility of the candidates concerned must, therefore, be fixed. In absence of any rule or any specific date having been fixed in the advertisement, the law, therefore, as held by this Court would be the last date for filing the application.”

7. Following the aforesaid two decisions of the Supreme Court, this High Court has reiterated the said principles of law in WPS No.4829/2008 in the case of Sandeep Kumar Shrivastava & Anr. v. State of Chhattisgarh & Ors. decided on 22/02/2010.

8. Given the aforesaid facts and circumstances of the case this Court has no hesitation in reaching to the conclusion that admittedly in the advertisement there was no fixed cut off date provided for attaining the educational qualification prescribed for the post and in the event of there being no cut off date, the last date of filing application would have to be accepted as the cut off date for obtaining the qualification.

9. In the instant case before the petitioner had applied and before the last date was over, the petitioner had obtained the qualification prescribed and therefore the petitioner's case seem to be squarely covered by the decision

of the Supreme Court in the case of Dipitimayee Parida (Supra) and the other judgments referred to by the counsel for the petitioner in the preceding paragraphs.

10. Given the aforesaid facts and circumstances of the case, the respondent No.2 is directed to consider the case of the petitioner for the post of Rural and Agricultural Extension Officer subject to the petitioner fulfilling all other requisite qualification, eligibility criteria and the merit. Let this exercise be done within a period of 60 days from the date of receipt of certified copy of this order.

11. Meanwhile, it is expected that the respondents should ensure that one post is kept vacant till the case of the petitioner is finally decided.

12. The petitioner is directed to bring to the notice of the respondent No.2 the order passed by this Court along with all other relevant documents.

13. The Writ Petition accordingly stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit