

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.18475 OF 2019

Date: 30.08.2019

Between:

Ade Kalyani D/o.Ade Shivaji, aged about 24 yrs,
Dhanora Village, Sirpur (U) Mandal,
Adilabad 504 313, Adilabad District.

.....Petitioner

And

The Principal Chief Conservator of Forests,
Government of Telangana,
Hyderabad & others.

.....Respondents



The Court made the following:

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ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Forests and learned Standing Counsel for Telangana State Public Service Commission.

2. Notification No.48 of 2017 was issued on 15.08.2017 inviting applications for direct recruitment to the posts of Forest Beat Officer. Total number of posts notified is 1857 out of which 463 are earmarked to Adilabad District. Petitioner belonged to Adilabad District. Petitioner is a scheduled tribe. She responded to the notification, participated in the selections, secured merit and was considered for appointment against vacancies reserved for scheduled tribes. It appears that on scrutiny of documents, the 5th respondent-Telangana State Public Service Commission, insisted the petitioner to secure Local Scheduled Tribe Certificate evidencing her residence in schedule area, to be eligible for appointment. When petitioner applied to Tahsildar for issuance of such certificate, the District Tribal Development Officer, insisted to produce the documents i.e., copy of Birth & Death certificates with effect from 26.01.1950, voters list with effect from 26.01.1950, Agriculture Land Sale Deed with effect from 26.01.1950, School Records and any other documents for approval. Petitioner states that though she is native of Dhanora village, the documents sought by the authority are not available.

3. Learned counsel for the petitioner submits that scheduled tribe is a class by itself and there cannot be a sub-division/mini-classification of the Scheduled Tribe, based on their nativity as

belonging to agency area or plain area and the insistence to produce the documents evidencing residence in schedule area is illegal. Further, not considering the petitioner for appointment against Scheduled Tribe vacancies as per the merit secured by her is *ex-facie* illegal, unconstitutional and the same is liable to be set aside and seeks a direction to the respondents to appoint the petitioner as Forest Beat Officer without reference to G.O.Ms.No.24 dated 12.06.2018.

4. Learned Standing counsel representing the Telangana State Public Service Commission, submits that selections were finalized and merit list was already sent to the appointing authority and appointments were already made except where the claims of local tribals verification is in process. He also points out that the post is governed by Andhra Pradesh Forest Service Rules. Note 1 (b) appended to Rule 3 specifies that 50% of the vacancies to the category of Foresters (Presently designated as Forest Beat Officers), in the notified scheduled areas of the State are reserved to be filled up only by local members of Scheduled Tribes of the relevant local area not withstanding anything contained in any other Order or Rule.

5. This writ petition is liable to be dismissed on two grounds. Firstly, the Rules prescribe reservation in favour of local scheduled tribes to the post of Forest Beat Officer to the extent of 50%. This rule is not under challenge. In the absence of challenge to the rule and declaring the rule as unconstitutional petitioner cannot be directed to be considered for the post of the Forest Beat Officer in the post located in agency area if she is not a resident of that agency area. Therefore, insistence to produce Local Scheduled

Tribe Certificate by the 5th respondent cannot be faulted. Whether such insistence is validly made or not cannot be gone into in the absence of challenge to the Rule.

6. Secondly, according to learned Standing counsel, selections were already finalised, merit list was published and merit list was sent to employer and employer has already made appointments but the selected candidates are not made parties to the writ petition.

7. Having regard to the above discussion, the Writ Petition is dismissed. It is open to the petitioner to work out her remedies with reference to issuance of Local Scheduled Tribe Certificate. However, if petitioner is otherwise eligible for the unreserved vacancy of Scheduled Tribe, she may be considered according to her merit. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 30.08.2019
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