

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.32084 of 2018

ORDER

This writ petition is filed seeking the following relief:

“to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Orders questioning action of the respondents in not appointing the petitioner for the post of Agriculture Extension Officer Grade-II under the category of Hearing Handicapped (W-L) in local cadres of Nalgonda District as per the Notification Dated 10.10.2017 bearing Notification No.51/2017 in spite of being qualified on the ground that petitioner had given web option to other districts *vide* Memo Dated 13.06.2018 bearing No.605/RP-1/2/2016 is illegal, unlawful, without jurisdiction in violation of Articles 14, 16 and 21 of the Constitution of India and to set aside the Memo Dated 13.06.2018 and direct Respondent No.2 to select and appoint the Petitioner for post of Agriculture Extension Officer Grade-II under the Local Cadres of Hearing Handicapped (W-L) in Nalgonda District with all consequential benefits and pass such other and further orders deemed fit and proper in the interest of justice.”

Heard Sri K.Pradeep Reddy, learned counsel appearing for the petitioner, learned Government Pleader for Agriculture appearing for respondent No.1 and Sri D.Bala Kishan Rao, learned Standing Counsel appearing for respondent No.2.

It is the case of the petitioner that pursuant to the notification dated 10.10.2017 issued by the 2<sup>nd</sup> respondent, the petitioner has applied for the post of Agriculture Extension Officer Grade-II. In the said notification, one post was reserved under the category of persons with disability (hearing handicapped) in the local cadre of Nalgonda. She fared well

in the selection process. As per the merit, she is coming within the zone of consideration for being appointed as Agriculture Extension Officer Grade-II. But, however, as the petitioner has not opted Nalgonda District and has given preference to other districts, such as Karimnagar, Khammam and Warangal, the respondents have not considered her case for being appointed as Agriculture Extension Officer Grade-II and rejected though there is a vacancy earmarked for hearing handicapped in Nalgonda District. The petitioner has submitted a representation to the respondents to consider her case for the post of Extension Officer Grade-II under Hearing Handicapped quota in Nalgonda District. But the respondents have considered and rejected her case *vide* Memo dated 13.6.2018.

Learned counsel appearing for the petitioner contended that the action of the respondents in rejecting the case of the petitioner for being appointed as Extension Officer Grade-II in local Nalgonda District is arbitrary and illegal. Learned counsel has drawn attention of this Court to paragraph No.8 clause 5 of the notification, which makes it clear that preference opted by candidates in respect of posts, districts etc., in the application form are only indicative for being considered to the extent possible but not binding or limiting

the Commission's powers conferred under Articles 315 and 320 of the Constitution of India. Therefore, the Commission has the power to assign a successful candidate to any of the notified posts for which he/she is qualified and eligible, subject to fulfilling the selection criterion. It is further contended that in exercise of its powers as set out in the notification, the Commission has got every power to consider the case of the petitioner as she is a meritorious candidate in Nalgonda District and has come within the zone of consideration for being appointed as Agriculture Extension Officer Grade-II. The respondents ought not to have rejected the case of the petitioner on the ground that she has not opted Nalgonda as one of her preferences. It is prayed that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for the post of Agriculture Extension Officer Grade-II by duly setting aside the rejection orders in terms of paragraph No.8 clause 5 of the notification.

Learned Standing Counsel appearing for the respondents contended that since the petitioner has not given any preference to local Nalgonda District, her case was not considered for appointment as Agriculture Extension Officer Grade-II. The case of the petitioner was considered in terms

of her option. Learned counsel had relied upon paragraph No.8 clause 2 of the notification, and contended that the candidates will be selected and allotted to Service/Department as per their rank in the merit list and as per District preference, against the vacancies available. It is further contended that since the petitioner has not exercised her option at Nalgonda District, her case was rightly rejected.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the case of the petitioner has to be considered in terms of Paragraph No.8 clause 5 of the notification, which makes it clear that the Commission has the power to assign a successful candidate to any of the notified posts for which he/she is qualified and eligible subject to fulfilling the selection criterion. The respondents cannot reject the case of the petitioner on the ground that she has not exercised the option to Nalgonda District. Clause 2 of Paragraph No.8 has to be read along with Clause 5 of Paragraph No.8. The contention of the learned Standing Counsel is that the selection will be made based on the rank in the merit list and in tune with Clause 5. Clause 5 of Paragraph No.8 of the notification makes it clear that the Commission has the power to assign a successful candidate to any of the notified posts for

which he/she is qualified and eligible, subject to fulfilling the selection criterion. In the case on hand, the petitioner is a successful candidate and she is coming within the zone of consideration as per the merit list for the un-filled post of Agriculture Extension Officer Grade-II, which is earmarked for Hearing Handicapped quota. Her case cannot be rejected merely because she has not given any preference for local Nalgonda District. Therefore, the impugned rejection order is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned rejection order is set aside. The respondents are directed to consider the case of the petitioner for appointment to the post of Agriculture Extension Officer Grade-II in the unfilled vacancy under Hearing Handicapped quota in Nalgonda District and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

*Date: 31.12.2019*  
*rkk*

