

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.4287 of 2008

Kumari Sarika Kunjam, D/o Shri Kashi Ram Kunjam, Aged about 20 years, R/o Village Bansagar, Post Kishanpuri, Police Station Narharpur, District Kanker (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, School Education Department, D.K.S. Bhawan, Raipur (C.G.)
2. Janpad Panchayat Durgukondal, Through its Chief Executive Officer, District Kanker (C.G.)
3. The Secretary, Chhattisgarh Professional Examination Board, Raipur (C.G.)
4. Kumari Aruna Mandavi (Shiksha Karmi Grade-III), D/o Dhanraj Mandavi, Aged about 28 years, Navin High School, Konde, P.O. Konde, Block Durgukondal, District Kanker (C.G.)

---- Respondents

For Petitioner: Mr. Rajkumar Pali, Advocate.

For Respondent No.1 / State: -

Mr. Animesh Tiwari, Deputy Advocate General.

For Respondent No.2: Mr. Yashwant Singh Thakur, Advocate.

For Respondent No.3: Mr. Pankaj Agrawal, Advocate along with Mr. B.P. Chakradhar, Assistant Controller, CG VYAPAM.

For Respondent No.4: Mr. D.N. Prajapati, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

10/06/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner herein applied for the post of Shiksha Karmi Grade-III from Janpad Panchayat, Durgukondal being OMR Code 176, but ultimately, at the result, she was not selected and her candidature was shown to be of Janpad Panchayat, Narharpur being OMR Code 174.

3. The petitioner has challenged her non-appointment on the post of Shiksha Karmi Grade-III holding that she had applied for the post of Shiksha Karmi Grade-III in Janpad Panchayat, Durgukondal (OMR Code 176), whereas, her case has been considered for Janpad Panchayat, Narharpur (OMR Code 174), which is unsustainable and bad in law.
4. Return has been filed by all the respondents including the Chhattisgarh Professional Examination Board (CG VYAPAM) – respondent No.3 herein which has clearly stated that in the OMR Answer Sheet, the petitioner herself has changed her Janpad Panchayat from Durgukondal (176) to Narharpur (174) and in accordance with her changed Janpad Panchayat, she has been assessed and she was not found suitable for the post of Shiksha Karmi Grade-III in Janpad Panchayat, Narharpur, as such, she has no case.
5. The submission of Mr. Rajkumar Pali, learned counsel appearing for the petitioner, is that on the instructions of the examining authority at the time of examination, the petitioner has changed her Janpad Panchayat which is absolutely illegal and bad in law.
6. Mr. B.P. Chakradhar, Assistant Controller, CG VYAPAM, present in the Court, submits that in the OMR Answer Sheet filled-up by the petitioner at the time of examination, she has changed her Janpad Panchayat from Durgukondal (176) to Narharpur (174), therefore, her case has been considered from Janpad Panchayat, Narharpur in which she has not been found selected and such assessment is based on the OMR format which was filled by the petitioner herself. Mr. Pankaj Agrawal, learned counsel appearing for respondent No.3 – CG VYAPAM, has also argued in that line.

7. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
8. Admittedly and undisputedly, the petitioner applied for the post of Shiksha Karmi Grade-III from Janpad Panchayat, Durgukondal i.e. OMR Code 176 and admit card (Annexure P-2) was issued in her favour and at the time of filling the OMR Answer Sheet which is Annexure R-3/1, an option has been given to the candidate to change the Janpad Panchayat as given in the admit card which the petitioner said YES and thereafter, filled the Code as 174 i.e. Janpad Panchayat, Narharpur, whereas, earlier, she had opted for Janpad Panchayat, Durgukondal (176) as shown in her admit card. As such, conversion / change of Janpad Panchayat was permissible which the petitioner candidly opted and applied for Janpad Panchayat, Narharpur (174) and her case has been considered for Janpad Panchayat, Narharpur. Once the petitioner has taken calculated chance by opting for change of Janpad Panchayat from Durgukondal to Narharpur, she cannot turn around and contend that her case ought to have been considered from Janpad Panchayat, Durgukondal. She is bound by the principle of estoppel and she cannot now, turn around and contend that her case has not been considered for Janpad Panchayat, Durgukondal which she had earlier opted and later-on at the time of examination, changed to Janpad Panchayat, Narharpur, though she is otherwise qualified and meritorious candidate. The petitioner herself could not have opted for changing the Janpad Panchayat from Durgukondal to Narharpur, if her case has to be considered from Janpad Panchayat, Durgukondal.
9. As a fallout and consequence of the aforesaid discussion, the

petitioner has failed to make out a case for interference in the appointment already made by the respondent authorities which is strictly in accordance with law. The petition deserves to be and is hereby dismissed. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma