

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.4639 of 2012

Dr. Maniram Kaushik, Aged about 38 years, S/o Shri Meghnath Kaushik, R/o D/229, Yadunandan Nagar, Tifra, Bilaspur (C.G.)
 ---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Higher Education Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. Chhattisgarh Public Service Commission, Through Secretary, Shankar Nagar Road, Raipur (C.G.)
3. Examination Controller, Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur (C.G.)
4. Hansraj Rahangdale, Aged about 42 years, S/o Shri Newaram Rahangdale, Abadipara, Gram Gureda, Post Daganiya, Tahsil Gundardehi, District Durg (C.G.)

---- Respondents

For Petitioner: Mr. Harshmander Rastogi, Advocate.
 For Respondent No.1 / State: -
 Mr. Sunil Otwani, Additional Advocate General.
 For Respondents No.2 and 3 / PSC:
 Mr. Anuroop Panda, Advocate.
 For Respondent No.4: -
 Mrs. Kiran Jain, Advocate.

ANDWrit Petition (S) No.4120 of 2013

Hansh Raj Rahangdale, Age 43 years, S/o Shri Mewa Ram Rahangdale, Assistant Professor, Posted at Kakatiya Govt. P.G. College, Jagdalpur, Bastar (C.G.)
 ---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Higher Education, State of Chhattisgarh, Raipur (C.G.)
2. Principal, Govt. Kakatiya P.G. College, Jagdalpur, Bastar (C.G.)
3. Director, Higher Level Scrutiny Committee, Tribal Research and Training Centre, Behind R.S.U., Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Sachin Singh Rajput, Advocate.
For Respondents / State: -
Mr. Sunil Otvani, Additional Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

24/08/2021

1. Proceedings of these matters have been taken-up through video conferencing.
2. Since common question of law and fact is involved in both the writ petitions, they have been clubbed together and heard together and are being disposed of by this common order.
3. The petitioner in W.P.(S)No.4639/2012 calls in question the selection of respondent No.4 / petitioner in W.P.(S)No.4120/2012 on the post of Assistant Professor (Sanskrit), selected on 17-7-2012, principally on the ground that post of Assistant Professor was reserved for Other Backward Classes (OBC) in the State of Chhattisgarh, whereas respondent No.4 (Hansraj Rahangdale) does not belong to OBC, he is basically from the State of Madhya Pradesh and therefore he was not entitled to be selected on the said post and if his selection is quashed, the petitioner will be entitled to be selected on the said post
4. The petitioner in W.P.(S)No.4120/2013 has filed this writ petition calling in question legality, validity and correctness of notice dated 22-11-2013 issued by the Principal, Government Kakatiya Post Graduate College, Jagdalpur by which the said authority has asked the petitioner to submit caste certificate duly verified from the High Level Caste Scrutiny Committee, otherwise, his services will be terminated. The petitioner has also in his writ petition sought relief that respondent No.3 be directed to issue verification of caste certificate to the

petitioner expeditiously and meanwhile, till verification is done, respondent No.2 be directed to allow the petitioner provisionally to work as Assistant Professor (Sanskrit), till the issuance of verified caste certificate.

5. Mr. Harshmander Rastogi, learned counsel appearing for the petitioner in W.P.(S)No.4639/2012, would submit that the respondent No.4 herein does not belong to OBC in Chhattisgarh and therefore he is not entitled to be selected on the post of Assistant Professor (Sanskrit) reserved for OBC in the State of Chhattisgarh and as such, his selection on the post of Assistant Professor (Sanskrit) deserves to be quashed.
6. On the other hand, Mrs. Kiran Jain, learned counsel appearing for respondent No.4 in W.P.(S)No.4639/2012, would submit that after selection, respondent No.4 had already been appointed on the post of Assistant Professor (Sanskrit) and is working on the said post for fairly long time and he had already completed the probation period.
7. Mr. Sachin Singh Rajput, learned counsel appearing for the petitioner in W.P.(S)No.4120/2013, would submit that the petitioner had already completed the period of probation and submitted all documents, but the High Level Caste Scrutiny Committee has not verified the same, as such, the petitioner is duly selected and appointed candidate for the post of Assistant Professor (Sanskrit). He would further submit that by notification dated 29-6-2013, the requirement of verification has been dispensed with and therefore the Principal is not entitled to ask for said verification.
8. Mr. Sunil Otvani, learned Additional Advocate General appearing for the State, in both the writ petitions, would submit that the competent

authority has rightly asked for verified caste certificate of the petitioner said to be in para 5 of the appointment order issued in his favour and therefore in the light of the decision of the Supreme Court in the matter of Vijakumar v. State of Maharashtra and others¹, the Principal of the College is justified in asking for said certificate which has rightly been called for and as such it cannot be held that in W.P.(S) No.4120/2013, the State authorities are unjustified in calling for verified caste certificate as Hansraj Rahangdale was appointed under OBC category on the post of Assistant Professor (Sanskrit).

9. Mr. Anuroop Panda, learned counsel appearing for respondents No.2 & 3 / PSC in W.P.(S)No.4639/2012, would submit that as per the recruitment process, respondent No.4 was selected on the post of Assistant Professor (Sanskrit).
10. 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.
11. In accordance with the advertisement issued by the Public Service Commission, Hansraj Rahangdale (respondent No.4 in W.P.(S) No.4639/2012 / petitioner in W.P.(S)No.4120/2013) was selected in the select list dated 17-7-2012 on the post of Assistant Professor (Sanskrit) against OBC category and by order of the State Government (respondent No.1) dated 12-11-2012, he was appointed provisionally on probation for a period of two years. Paragraph 5 of the appointment order annexed as Annexure P-3 in W.P.(S) No.4120/2013 states as under: -

5. आरक्षित श्रेणी के नियुक्त अभ्यर्थी द्वारा उसकी जाति के प्रमाण पत्र का सत्यापन स्वतः छानबीन समिति से करवाकर दो माह के भीतर नियोक्ता अधिकारी को सत्यापन रिपोर्ट प्रस्तुत की जाएगी और यदि उक्त नियत अवधि में अभ्यर्थी

छानबीन समिति द्वारा सत्यापित जाति प्रमाण पत्र प्रस्तुत करने में असफल रहता है अथवा छानबीन समिति द्वारा सत्यापन के उपरांत उसका जाति प्रमाण पत्र फर्जी/गलत पाया जाता है, तो बिना कोई कारण बताए पूर्वाग्रह के बिना उसकी नियोक्ता द्वारा सेवाएं समाप्त कर दी जायेगी, तथा झूठा प्रमाण पत्र प्रस्तुत करने के लिये उसके विरुद्ध भारतीय दण्ड संहिता के प्रावधानों के अंतर्गत यथोचित कार्यवाही, भी की जा सकेगी। जाति प्रमाण पत्र के सत्यापन के उपरांत ही संबंधित की नियुक्ति को अंतिम रूप से मान्य किये जाने पर विचार किया जायेगा। संबंधित का यह दायित्व होगा कि वह छानबीन समिति द्वारा चाहे गये सभी आवश्यक दस्तावेज/रिकार्ड एवं जानकारीयों अपने जाति प्रमाण पत्र के सत्यापन हेतु छानबीन समिति को उपलब्ध कराएगा।

12. A careful perusal of the aforesaid clause would show that petitioner in W.P.(S)No.4120/2013 Hansraj Rahangdale having been appointed against reserved category (OBC) was required to submit his verified caste certificate within two months from the date of appointment and if he fails to get the caste certificate verified by the High Power Caste Scrutiny Committee or his caste certificate is found to be forged or false, his services can be terminated. It appears from the notice dated 22-11-2013 (Annexure P-1) that pursuant to the appointment order, he joined the services on 11-12-2012 and sought time for producing the verified caste certificate and two months further time was granted which expired on 10-2-2013 and again reminder was issued on 28-2-2013, but no verified caste certificate of the Caste Scrutiny Committee was submitted and finally, on 22-11-2013 notice has been issued to submit verified caste certificate which is sought to be challenged by him in W.P.(S)No.4120/2013.
13. In the considered opinion of this Court, the notice dated 22-11-2013 is in accordance with paragraph 5 of the order of appointment dated 12-11-2012. Sufficient time was granted to petitioner Hansraj Rahangdale to submit verified caste certificate, as he has accepted the terms and conditions of his appointment order and joined without demur or protest qua paragraph 5 of the appointment order which clearly stipulates the condition of submitting verified caste certificate

within two months from the date of appointment, however, that period has been extended and further two months' time has been granted to produce the verified caste certificate and when the verified caste certificate could not be produced and his caste could not be got verified, then notice has been issued to him to submit his verified caste certificate giving one month's time to file the same. It is the case of the petitioner (Hansraj Rahangdale) that he has submitted all documents, but it has not been got verified.

14. Since the writ petition filed by the petitioner (Hansraj Rahangdale) is pending a period of more than seven years and in the meanwhile, the petitioner continued on the said post it would be appropriate that the appointing authority or any other competent authority would refer the matter of the petitioner i.e. verification of caste certificate to the State level appropriate High Power Caste Scrutiny Committee in terms of paragraph 5 of the appointment order and the said Committee will complete the verification process within 60 days from the date of reference after hearing the parties and submit its report to the appointing authority and the appointing authority, in turn, will take decision expeditiously on the said report and thereafter would proceed in accordance with law. On that basis, further decision with regard to claim of the petitioner (Dr. Maniram Kaushik) in W.P.(S)No.4639/2012 would be taken. It is ordered accordingly. The petitioners may submit their respective claim in support of caste certificate before the Committee within three weeks from today.

15. It is made clear that this Court has not expressed any opinion on the merits of the matter and it is the High Power Caste Scrutiny Committee that has to take decision on the basis of documents and material brought on record before it.

16. With the aforesaid observation and direction, the writ petitions stand finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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