

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19275 of 2021

Niva Nayak

....

Petitioner

Mr. Sameer Kumar Das, Adv.

-versus-

State of Orissa and Ors.

....

Opposite Parties

Mr. Dayananda Mohapatra, Adv.

(for O.Ps.1 to 4/University)

Mr. N.K. Sahu, Adv.

(for O.P.5)

Mr. K.C. Rajguru, Adv.

(for O.P.6)

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

09.09.2022

Order

No.

10. 1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the Parties.
3. In this Writ Petition, the Petitioner challenges the selection of the Opposite Party No.5 as Associate Professor in the Department of Chemistry of Fakir Mohan University, Vyasa Vihar, District- Balasore against the single reserve post for women.
4. Learned counsel for the Petitioner submits that Rule-4 of the Orissa Civil Services (Reservation of Vacancies for

Women in Public Services) Rules, 1994 (hereinafter referred to as “the Rules” for brevity) has been violated in the instant case.

5. However, learned counsel for the Opposite Party Nos.1 to 4/ University brought to the attention of this Court regarding Rule-4(3) of the of the Rules provides as follows:

“(3) If in any year, the vacancies reserved for a particular category of women candidates specified under Sub-rule (1) remain unfilled due to non availability of suitable women candidates belonging to the respective category, the unfilled vacancies shall be filled up by suitable male candidates of the same category:

Provided that in case of non-availability of suitable male candidate of that category, the vacancy shall be filled up by women candidate of general category.”

He further submits that the University relies on the decision of the Selection Committee and they do not have any contrary stand to take, if the Selection Committee has not found anybody suitable. The University cannot assign any reason as to why the Selection Committee has not found suitable anybody.

6. However, it is also true that this Court cannot sit as a Super Selection Committee to decide as to whether the

Petitioner is suitable or not. It is also quite apparent that the reason for unsuitability of the present Petitioner has been reflected in the Resolution of the Selection Committee.

7. In such view of the matter, this Court is of the view that since the reservation of women candidate flows from the mandate of the Constitution of India, the said constitutional mandate has to be strictly followed. In view of such mandate, the Selection Committee should relook the selection process especially with respect to selection of Associate Professor in the Department of Chemistry of Fakir Mohan University, Vyasa Vihar, District- Balasore, considering the Rules and the Advertisement dated 10.07.2019 under Annexure-1.

8. In view of the above, let the University relook the entire issue afresh as stated above taking into account the Rules and the Advertisement dated 10.07.2019 under Annexure-1 within a period of two months from today.

9. Accordingly, this Writ Petition is disposed of.

10. As requested, all the original papers filed by the learned counsel for the Opposite Party Nos.1 to 4/ University be returned back forthwith.

11. Urgent certified copy of this order be granted on proper application.

(Dr. S.K. Panigrahi)
Judge

B.Jhankar

