

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.2086 of 2015

Mamata Swain

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

24.06.2022

Order No

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.B. Mohanty, learned counsel for the Petitioner and Mr. Mohanty, learned Standing Counsel appearing for the Department.

3. The present writ Petition has been filed challenging the action of O.P. No. 3 in not permitting the Petitioner to take part in the counseling for the purpose of her appointment as a contract teacher.

4. It is submitted that pursuant to the advertisement issued under Annexure-1 and taking into account the stipulation contained in the said advertisement, the Petitioner submitted her application by enclosing relevant documents in support of her having certificate of merit as a Sports person issued by the Soft Ball Association of India, which is a National level event organized by Maharashtra

State Soft Ball Association and Nagpur District Soft Ball Association.

5. It is further submitted that taking into account the said qualification of the Petitioner as a Sports Person, the Petitioner was selected for her appointment as a contract teacher for the district of Nabarangpur. The name of the Petitioner finds place in the select list annexed vide Annexure-3 series. The select list also indicates that the Petitioner was selected in respect of the category of Sports Person and she was selected in respect of Nabarangpur district.

6. It is submitted that after being selected, the Petitioner when appeared for counseling before D.E.O., Nabarangpur-O.P. No. 3, he insisted upon for the production of the National Identity Card in support of her claim for inclusion in the reserve category as Sports Person. It is also submitted that the Petitioner though submitted before the said Opp. Party that no such sports identity card is ever issued, but without acceding to such submission, the Petitioner was not permitted to take part in the counseling and accordingly she was not provided with the order of appointment.

7. Mr. Mohanty further submitted that this Court while issuing notice of the matter vide order dtd.25.06.2015 passed an interim order by keeping one post of TGT(Arts) vacant under D.E.O., Nabarangpur under sports category. Accordingly, Mr. Mohanty prayed that appropriate order be passed in the matter.

8. Mr. Biplab Mohanty, learned Standing Counsel appearing for the Department made his submission basing on the stand taken in the counter. It is submitted that in the advertisement issued under Annexure-1, there is no provision for consideration of candidates with having sports certificate. It is also submitted in the resolution

issued by the Govt. in the General Administration Department on 18.11.1985 under Annexure-A/3, the Sports Person has to produce the identity card issued in her favour at the time of her appointment against the said reserved post. Accordingly, Mr. Mohanty submitted that since the Petitioner could not produce such identity card in support of her claim for inclusion in the reserve category as a Sports Person, she was rightly denied participation in the counseling by O.P. No. 3.

9. Heard learned counsel for the Parties at length. Perused the materials available on record. It is not disputed that pursuant to the advertisement issued under Annexure-1 the application submitted by the Petitioner claiming benefit of reservation under sports category was accepted and she was also selected as a reserve category candidate in the select list published under Annexure-3. The Petitioner on being so selected in the category of Sports Person, she was sponsored to Nabarangpur district. But as indicated above, since the Petitioner could not produce the identity card in support of her claim for inclusion in the reserve category as Sports Person, the Petitioner was not allowed to participate in the counseling and accordingly was not issued with the order of appointment.

10. This Court finds that in the advertisement issued under Annexure-1, the candidate while submitting his/her application has to enclose the certificate in support of his/her claim for inclusion in reserve category such as PWD, ESM and Sports.

11. This Court also finds that the Petitioner's application as a reserve category candidate i.e. as Sports Person was not only accepted, but also she was selected in the category of Sports Person

in the select list published under Annexure-3 series and she was sponsored in respect of Nabarangpur District.

12. Since the Petitioner was duly selected as a reserve category candidate, the action of O.P. No. 3 in insisting the Petitioner to produce the National Identity Card in support of such inclusion as a reserve category candidate is not legal and proper. It is the settled law that the selection process has to be conducted strictly in accordance with the stipulation contained in the advertisement. Since nowhere in the advertisement there is a provision to produce National Identity Card in support of the claim for inclusion in Sports category, the action of the O.P. No. 3 in insisting upon production of such a document is not permissible. The stand taken by the Department in the counter relying on the resolution dtd.18.11.1985 under Annexure-A/3 that the Sports man shall produce the identity card issued in her favour by the Director of Sports at the time of her appointment in the post against such reserved post cannot be a ground to deprive the Petitioner to participate in the counseling as the certificate issued under Annexure-2 series clearly shows the participation of the Petitioner in a National level sports event.

13. Since this Court while issuing notice of the matter passed an interim order to keep one post of TGT (Arts) vacant under O.P. No. 3 under Sports category, this Court directs O.P. No. 3 to permit the Petitioner to get her original documents verified in support of her qualification and for inclusion as a reserve category candidate in Sports category and to take consequential action thereof. The Petitioner is directed to appear before O.P. No. 3 along with the certified copy of this order within a period of ten (10) days from today.

14. It is observed that on receipt of the said order, O.P. No. 3 shall take necessary step for verification of the original documents and if found the same in order, provide order of appointment in favour of the Petitioner. The entire exercise shall be completed within a period of three (3) months from the date of receipt of this order.

15. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha

