IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 6103 of 2024

Md. Shahjada, Aged About-40 Years, Son of- Md. Athar Ali, Resident of Vill- Chaktarana, P.O- Choudhary Nawadih, P.S-Palojori, District- Deoghar **..Petitioner**

Versus

1. The State of Jharkhand through the Principal Secretary School Education and Literacy Department, Govt. of Jharkhand having its office at Project Bhawan, P.O. & P.S.- -Dhurwa, District Ranchi, Jharkhand.
2. The Director, Primary Education (Directorate of Education), School Education and Literacy Department, Govt. of Jharkhand, having its office at Project Bhawan, P.O. & P.S. Dhurwa, District-Ranchi, Jharkhand.
3. The Deputy Commissioner- Cum- Chairman, District Education Established Committee, Deoghar, P.O., P.S. & District-Deoghar.
4. The District Superintendent of Education, Deoghar, P.O., P.S. & District – Deoghar **..Respondents**

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CORAM: **HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner(s) : Mr. Shubham Mishra, Advocate
For the Respondents : A.C to S.C.-II

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05/24.09.2026 The instant writ petition has been preferred by the petitioner for the relief:

> *For a direction upon the respondents to appoint the petitioner on the post of Assistant Teacher in the district of Deoghar under Para (Unreserved) female category for Class VI-VIII in the subject of Language pursuant to the advertisement floated in the year 2015, as the petitioner has already participated in the counselling conducted on 25.08.2024 in the said district pursuant to notification issued by the office of the respondents on 23.08.2024 and was having the required cut off marks in the said category but inspite of the said fact the name of the petitioner did not figure in the final selection list issued by the respondent authorities without assigning any reason for excluding the name of the petitioner which is not tenable in the eyes of law and as such the petitioner may be appointed on the aforesaid post in the district of Deoghar as the seat under Para (Unreserved) female category for Class VI-VIII in language subject is still vacant.*

2. The fact of the case lies in a narrow compass. An Advertisement was published in the year of 2015 for the appointment on the post of Assistant Teacher in

Government School situated within the different districts within the State of Jharkhand. The petitioner being eligible applied different districts including the District Deoghar for his appointment in para (unreserved) category for the post of Language Teacher for Class VI-VIII.

Pursuant to the advertisement, a series of counselling was held although certain candidates including the petitioner were not called for counselling. Being aggrieved, certain candidates moved before this court in *W.P(S) no. 2378 of 2019 (Paras Nath Mandal vs The State of Jharkhand and Ors. & Other Analogous Cases)* wherein a direction was issued to conduct a last round of counselling pursuant to the aforesaid advertisement. The said order was upheld by the Division bench in *L.P.A No. 203 of 2022.*

Pursuant to the direction of this court, the respondent authorities issued a notification inviting eligible candidates for counselling and the date of counselling was fixed on 01.08.2024 and a provisional list was published by the district of Deoghar of the candidates who were shortlisted for counselling although the name of the petitioner did not appear in the provisional list. The date of counselling was subsequently deferred to 25.08.2024.

The respondent-District Authorities of Deoghar has issued a notification dated 23.08.2024, wherein it was mentioned that those candidates, whose names are not mentioned in the merit-list but have applied in 2015

advertisement and have moved before this Court can participate in the counselling process to be conducted on 25.08.2024. The petitioner had applied in 2015 advertisement and was a petitioner in *W.P(S) No. 1202 of 2024* which was disposed of in terms of the order passed in *W.P(S) No. 2378 of 2019* appeared in the counselling which was conducted on 25.08.2024.

However, the candidature of the petitioner was not considered for the post of Language Teacher for Class VI-VIII in the Male Category as the cut off marks in male category was fixed as 59.37, and the total merit marks of the petitioner was calculated to be 54.69.

Interestingly, the cutoff marks in female category (UR) was 51.26 and petitioner was fulfilling the same, since the petitioner was fulfilling the cutoff in the female category and there were no other female candidates eligible for the counselling for 6 vacant seats, respondent authorities allowed the petitioner and two other candidates to appear in the counselling process under Para Unreserved Female Category for the Class VI-VIII in the Language Subject.

After the counselling process was completed the respondent authorities issued a selection list dated 26.09.2024, wherein the result of all other categories were published but the name of the petitioner did not appear in the said selection list as no result was published in the

category, in which the petitioner has appeared without assigning any reason.

Being aggrieved, the petitioner has approached this court in the present writ petition.

3. Learned counsel for the petitioner submits that although the petitioner was allowed to appear in the counselling for the seats reserved for Female (UR) Category candidate for Class VI-VIII in the subject of Language which is apparent from Annexure-7 to the writ petition, but without assigning any reason the result was not published in the said category.

4. Further, the petitioner has relied upon a letter dated 30.10.2015 (Annexure-10 to the rejoinder) issued by the Secretary, School Education and Literacy Department, Government of Jharkhand addressing to all the Deputy Commissioners of the State that in an appointment process, in absence of any eligible female candidate, eligible male candidate can be selected in the seats of the female candidate as per the merit prepared for that category.

5. Ld. Counsel further submits that the letter dated 30.10.2015 was issued in light of the direction passed by the Hon'ble Apex Court in *Civil Appeal No. 74 of 2010*. He further relied upon letter dated 17.07.2019 (Annexure-11 to the Rejoinder) issued by the Director Primary Education, School Education and Literacy Department, Government of Jharkhand, wherein the direction issued vide letter dated

30.10.2015 by the State Government was reiterated and as such; Ld. Counsel contended that in absence of eligible female candidate, male candidate can be selected as per the merit prepared for the female category candidate.

6. He lastly submitted that in view of the aforesaid letters of the State Government the petitioner was entitled to be selected in the seat reserved for the female category candidate as he was meeting the required cut-off in the said category which was 51.26 and the petitioner merit marks was 54.69 and he was duly allowed by the respondents to appear in the counselling process in absence of the eligible female category candidate.

7. On the other hand, Ld. Counsel for the Respondent State relying upon the counter affidavit has stated that the merit marks of the last selected candidate in Para Unreserved Male category Class VI-VIII for Language Teacher is 59.37 % and the merit marks of the petitioner is 54.69%, which is less than the merit marks of last selected candidate in the above said category and if the female seats are replaced by male candidate; even then, the petitioner is not eligible for the said post. For the candidature of the petitioner (Male) for female Unreserved Category, the merit marks of the petitioner should be more than 59.37% as per the Rule. Thus, the petitioner is not entitled for any relief as prayed for.

8. Having heard learned counsel for the parties, it appears that the case of the petitioner was not considered on the ground that although he was allowed to appear in the seats vacant for the female category candidate but since the merit marks of the petitioner was less than the cut-off marks of the male category candidate; hence, he was not selected in the vacant seats of female category.

9. As a matter of fact, as per letter dated 30.10.2015 and letter dated 17.07.2019 issued by the State Government which clarifies that in an appointment process, in absence of any eligible female candidate; eligible male candidate can be selected in the seats reserved for the female candidate as per the merit prepared for that category.

10. The contention raised by the State Counsel that since the petitioner could not meet the merit marks of the male category candidate; hence his candidature was not considered is not tenable in the eyes of law as the State Government in the aforesaid letters has themselves clarified that when a male candidate is selected on the seat reserved for female then he will be selected as per the merit of that category and in the present case the cut-off of the female category was 51.26 and the petitioner has a merit marks of 54.69 then he was eligible to be selected in the said category as the respondents themselves have allowed the petitioner to appear in the vacant seat of female category which is apparent from Annexure-7 to the writ petition.

11. Moreover, from bare perusal of letter dated 30.10.2015 issued by the State of Jharkhand, it is apparent that the same has been passed by taking into consideration the order passed by the Hon'ble Apex Court in the Case of ***Jitendra Kumar Singh & Anr. Vs State of U.P. & Ors. (Civil Appeal No. 74 of 2010),*** whereby it has been observed that in case of Horizontal Reservation the carry forward rule will not be applicable.

12. Accordingly, in view of the aforesaid findings it is hereby held that the petitioner is entitled for appointment on the post of Assistant Teacher in the district of Deoghar under Para (Unreserved) Female Category for Class VI-VIII in the subject of Language pursuant to the Advertisement of 2015.

13. Therefore the 3rd Respondent is directed to take appropriate steps for appointment and consequently issue appointment letter to the Petitioner within a period of six weeks from the date of receipt of copy of this order.

14. Accordingly, the instant writ application stands allowed in the aforesaid terms.

15. Pending I.A(s), if any, stands closed.

(Deepak Roshan, J.)

24th September, 2026
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