IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (S) No. 1222 of 2015
with
W. P. (S) No. 1402 of 2015
...

1. Santosh Kumar Tiwari
2. Md Abid Anwar
3. Veronica P. Kujur
4. Prem Prakash Odhar
5. Anup Kumar Thakur
6. Santosh Kumar Singh
7. Sebastiani Kerketta
8. Linjun Kujur
9. Najmul Haque
10. Md. Tahir Hussain
11. Brahmdeo Dhagi
12. Manoj Kumar Das
13. Nishant Kumar
14. Umesh Kumar
15. Mokarram Ansari
16. Md Manaur Hussain
17. Ruby Kumari
18. Dinesh Kumar
19. Sunita
20. Rekha Gupta
21. Vikesh Kumar Ram
22. Manigopal Das
23. Rajni Kumari
24. Reetika Kumari
25. Sunita Dahanga
26. Sofia Nag
27. Rampal Sharma
28. Rounaque Naaz... ...Petitioners (in W. P. (S) No. 1222 of 2015)

1. Dharamender
2. Amit Kumar Singh
3. Raj Kumar Mishra
4. Nirupa
5. Bhuneshwar Pandit
6. Pramathew Yayawar .....Petitioners(in W. P. (S) No. 1402 of 2015)

-V e r s u s-

1. The State of Jharkhand
2. The Secretary, HRD Department, Jharkhand, Ranchi
3. The Director, Secondary Education,
   HRD Department, Jharkhand, Ranchi
4. The Jharkhand Academic Council, Namkum through its Chairman
5. The Secretary, Jharkhand Academic
   Council, Namkum ... ...Respondents (in both cases)

...

CORAM: - HON'BLE MR. JUSTICE APARESH KUMAR SINGH

...

For the Petitioners: - M/s Rajiv Ranjan, Ajit Kr. Dubey,
Shresth Gautam, Piyush Chitresh, & Shray Mishra, Advs.
For the State : - JC to AAG & Mr. Jalisur Rahman, JC to GP-II
For the JAC : - Md. Sohail Anwar, Sr. Adv.

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05/22.04.2015 Heard learned counsel for the parties.

With the consent of the parties, both the writ petitions have been heard together and are being decided by the common judgment. Learned Senior counsel appearing on behalf of the respondent– Jharkhand Academic Council (hereinafter refereed to as JAC) adopts the stand taken in the counter affidavit in W. P. (S) No. 1222 of 2015 as common issues and facts are involved in both these writ petitions.

All these petitioners were candidates for recruitment to the post of Assistant Teacher in the Upgraded Middle School under Adv. No. 93/11. They had either completed B.Ed Course by cut off date of 25.10.2011, Annexure-1, advertisement and were appearing candidates or some of them had appeared and the results were not published. The exams of the said advertisements were held on 29.08.2012. The advertisement contained a particular clause i.e. Clause 3 (Ga) (ii), which is quoted hereunder:-

> *"(ii) राज्य सरकार/केन्द्र सरकार/राष्ट्रीय अध्यापक शिक्षा परिषद् द्वारा मान्यता प्राप्त संस्थान से बी0एड0 की डिग्री। परन्तु वैसे अभ्यर्थी, जो शिक्षक प्रशिक्षण पूरा कर लिये हों तथा प्रशिक्षण की परीक्षा में सम्मिलित होनेवाले हैं, को शिक्षक नियुक्ति हेतु आयोजित होनेवाली परीक्षा के लिए आवेदन पत्र भरने की अनुमति तथा परीक्षा में सम्मिलित होने की अनुमति दी जायेगी। परन्तु ऐसे अभ्यर्थी का प्रशिक्षण परीक्षाफल परिषद् द्वारा आयोजित शिक्षक नियुक्ति की प्रतियोगिता परीक्षाफल के प्रकाशन की तिथि के पूर्व परिषद् द्वारा निर्धारित समय सीमा तक समर्पित करना आवश्यक होगा। तत्पश्चात् परिषद् द्वारा उनकी अनुशंसा विभाग को उपलब्ध करायी जा सकेगी।"*

The aforesaid clause, no doubt, is in conformity with the Jharkhand Nationalized Middle School (Service Conditions) Rule, 2004 as amended vide notification dated 30.09.2011, more specifically Rule 4 (3) (Ga), Annexure-A to the counter affidavit of the respondent -JAC also quoted hereunder:-

> *"4 (3) (ग) परन्तु वैसे अभ्यर्थी जो शिक्षक प्रशिक्षण पूरा कर लिये हों, तथा प्रशिक्षण की परीक्षा में समिमलित होने वाले हैं, को शिक्षक नियुक्ति हेतु आयोजित होने वाली परीक्षा के लिये आवेदन पत्र भरने की अनुमति तथा परीक्षा में सम्मिलित होने की आयोग अथवा राज्य सरकार द्वारा आयोजित शिक्षक नियुक्ति की प्रतियोगिता परीक्षाफल के प्रकाशन की तिथि के पूर्व आयोग/परिषद् द्वारा निर्धारित समय सीमा तक समर्पित करना आवश्यक होगा। तत्पश्चात् आयोग/परिषद् द्वारा उनकी अनुशंसा विभाग को उपलब्ध करायी जा सकेगी।"*

Perusal of the conditions and the Rules quoted hereinabove, shows that the candidate who is appearing for B.Ed. Exam is entitled to appear in the recruitment exercise. However, he shall be required to submit B.Ed. Certificate before the publication of the result and by the date to be

notified by the examining body. The interpretation of the aforesaid conditions/rule in the factual matrix of the case will determine whether the petitioners are entitled to the relief claimed for herein.

Grievances of the petitioners are that in the final result published by the Jharkhand Academic Council on 16.03.2015 (published on the website on 18.03.2015), the name of the petitioners have been left out though their names were included in the pending matters in the earlier results published on 24.10.2014 by the Jharkhand Academic Council.

Admittedly, results of the exams held on 29.08.2012, were not published for more than two years by the respondent -Jharkhand Academic Council. The reasons for the same are also obvious i.e. the Jharkhand Academic Council was entrusted with the responsibility to hold exams under Adv Nos. 02/10 and 05/10 for recruitment of Assistant Teachers to the Up-graded Middle School of the State of Jharkhand after the State Government decided to direct it to do so instead of Jharkhand Public Service Commission, which had earlier issued the two advertisements. Special Exams under the said two advertisements pursuant to certain direction also passed by this Court in W. P. (C) No. 442 of 2012 vide judgment dated 27.08.2012, Annexure-B and in W. P. (S) No. 4242 of 2013 vide judgment dated 01.10.2013, Annexure-C to the counter affidavit, were held on 28.08.2014. Jharkhand Academic Council thereafter issued a notice on 06.09.2014 published on 07.09.2014, Annexure-D to the counter affidavit being Adv. No. 54/2014 in specific terms asking all the candidates, who had appeared in the selection exercise held under Adv. Nos. 02/10, 05/10 and 93/11 to submit their certificates of B.Ed. self attested by speed post/registered post by 22.09.2014 till 5.00 P.M. in the office of Jharkhand Academic Council failing which their candidature would be treated to be cancelled and they would be responsible for the same. The respondent -JAC published a result under the aforesaid three advertisements on 24.10.2014 in which the names of 1956 candidates were shown out of which 221 cases were shown to be pending.

Recommendation was also sent on the same date to the Human Resources Development Department by JAC for taking further steps in the matter for recruitment of such teachers. The respondent -JAC thereafter issued Annexure-F, Adv. No. 75/2014 published on 15.11.2014 reproduced hereunder:-

झारखण्ड अधिविद्य परिषद्, रॉची

JHARKHAND ACADEMIC COUNCIL, RANCHI

राज्य के नव उत्क्रमित माध्यमिक विद्यालयों में सहायक शिक्षकों की नियुक्ति परीक्षा के परीक्षाफल में लम्बित परीक्षाफल से संबंधित अभ्यर्थियों के संबंध में महत्वपूर्ण सूचना

विज्ञप्ति संख्या – 75/2014

एतद् द्वारा राज्य कें नव उत्क्रमित माध्यमिक विद्यालयों में सहायक शिक्षकों की नियुक्ति परीक्षा, जिसका परीक्षाफल परिषद् के वेबसाइट पर प्रकाशित किया जा चुका है, में लम्बित रखे गये परीक्षाफल से संबंधित अभ्यर्थीयों को सूचित किया जाता है कि लम्बित परीक्षाफल के निष्पादन हेतु वे अपनी योग्यता/अर्हता संबंधी प्रमाण पत्र (मूल एवं स्वअभिप्रमाणित छायाप्रति) एवं नियुक्ति परीक्षा के प्रवेश पत्र के साथ नीचे अंकित कार्यक्रम के अनुसार परिषद् कार्यालय में उपस्थित होना सुनिश्चित करेंगे।

क्र.स.	*विषय*	*दिनांक*
1	*हिन्दी*	*18.11.2014*
2	*अंग्रेजी*	*19.11.2014*
3	*संस्कृत, उर्दू , जीवविज्ञान*	*20.11.2014*
4	*विज्ञान, गणित, भूगोल, इतिहास*	*21.11.2014*
5	*अर्थशास्त्र*	*22.11.2014*
6	*नगरिक शास्त्र, फारसी, गृहविज्ञान, वाणिज्य, संगीत, अरबी*	*24.11.2014*
7	*क्षेत्रीय भाषा/ जनजातीय भाषा*	*25.11.2014*

उक्त तिथि कें पश्चात लम्बित परीक्षाफल के सबंध में कोई विचान नहीं किया जायेगा।

अध्यक्ष के आदेश से,

JAC/TGT/Pending Result/Confidential/
6897/14-Secy/592/14, Dt. 14.11.2014
D.O.P : 15.11.2014

ह0/–
सचिव,
झारखण्ड अधिविद्य परिषद्, रॉची ।

Perusal of the aforesaid advertisement shows that the candidates whose results were shown pending in the results notified by JAC on Website, were called with their certificates of eligibility and educational qualification (original) and self attested along with their Admit Cards on different dates notified for different subjects from 18.11.2014 to 25.11.2014. It was also indicated at foot note that beyond the said date no consideration would be accorded to the candidates, whose results were kept pending. This advertisement was again followed up by another advertisement i.e. Adv. No. 78/2014 published on 25.11.2014, which is Annexure-2 to the rejoinder, which again permitted

the candidates whose results were kept pending to appear in the office of Academic Council on 27.11.2014 along with their certificates as indicated in the earlier Adv. No. 75/2014.

State of Jharkhand did not accept the recommendation of the JAC sent alongwith results on 24.10.2014 on account of several lacuna and infirmities as was conveyed through letter no. 2339 dated 29.12.2014, Annexure-G issued by the Secretary, Human Resources Development Department.

The Chairman, JAC vide letter dated 09.01.2015 addressed to the Secretary, Human Resources Development Department conveyed the decision of the council to withdraw the list of the recommended candidates and to re-send duly revised list of successful candidates (Annexure-H).

JAC asked the candidates whose Roll numbers were reflected in Adv. No. 4/15, Annexure-I published on 18/20.01.2015 to appear in the office of Jharkhand Academic Council along with all necessary documents and certificates showing their eligibility by particular dates, whereafter their cases would not be considered.

It is not in dispute that these petitioners whose names were reflected as pending, in the result published on 24.10.2014 had missed the cut off date 22.09.2014 notified for furnishing of their B.Ed certificates. However, these petitioners claim to have submitted their certificates pursuant to the Adv. No. 75/2014 dated 15.11.2014. It is the case of all these petitioners that they had completed their B.Ed. and results were declared as per Chart enclosed as Para 16 of the writ petition during different months of year 2011-12. However, learned Senior counsel for the JAC states that at para 16, the dates of result of B.Ed. Exam of seven petitioners is not shown. The present dispute has arisen on account of the fact that the names of these petitioners did not find place in the results published on 18.03.2015 by Respondent-JAC.

According to the petitioners, when the Respondent -JAC itself asked for submission of relevant certificates vide notification dated 15.11.2014 as also Adv. No. 78/2014 dated 25.11.2014, when their names were also shown to be pending

in the results published on 24.10.2014, there was no reason for JAC to delete their names once they had duly completed B.Ed Course and had also submitted their certificates before the publication of final result on 18.03.2015.

Learned counsel for petitioners submits that since results have finally been published on 18.03.2015 and the earlier result of 24.10.2014 and its recommendations were withdrawn admittedly by JAC, the Rules of 2011, more specifically 4(3)(ga) and the conditions imposed under the Adv. No. 93/2011, quoted hereinabove, do not stand in the way of Respondent -JAC to consider their cases and include their names in the result published on 18.03.2015, if they come in the merit-list as per their marks and in view of vacancy position. It is also not in dispute that 2513 posts were advertised under 3 advertisements while the recommendation has been made for only 1859 candidates under the result published on 18.03.2015 to the State Government.

It is the case of the Respondent -JAC as represented through their senior counsel Mr. Sohail Anwar that JAC had strictly acted as per the terms and conditions incorporated in Adv. No. 93 of 2011 as also similar conditions in Adv. No. 2/10 and 5/10 which is only in conformity with the statutory Rule of 2011. Once the deadline of 22nd September, 2014 was crossed, the petitioners who failed to submit their B.Ed. certificates within cut off date do not have any legally sustainable right to be included in the merit-list. According to the respondents, the names of persons including the petitioners shown as pending in the result on 24th October, 2014 were only for the purposes of further verification and not to give an extended time for submission of relevant certificates as is made out by the petitioners. He has placed the contents of Adv. No. 75/2014 published on 15.11.2014, to submit that it does not refer to either of three advertisements and more so does not stipulate that it has extended the time period for submission of B.Ed. Certificates and other educational qualification certificates in respect of those candidates whose results were found pending. Learned

counsel for the Respondent -JAC submits that after the recommendation of JAC and the result published on 24.10. 2014 were returned with certain infirmities pointed out by H.R.D. Department, the same were rightly withdrawn. JAC is a responsible Examination Body and required to act in conformity with the Rules and the advertisement. Therefore after revision and removal of all infirmities it has published final result on 18.03.2015. It is the respondents' case that those, who have failed to submit their certificates on 22.09.2014, apart from the petitioner would also be coming forward, if the plea of the petitioners' is accepted. Cut off date for submission of certificates cannot be extended as is well settled as per the ratio laid down by the Hon'ble Supreme Court in the judgment rendered in the case of ***Government of Andhra Pradesh & Ors Vs. N. Subbarayudu & Ors.*** reported in ***(2008) 14 SCC 702*** and in the judgment rendered by the Division Bench of this Court in the case of ***Jiura Oraon Vs. the State of Jharkhand & Ors.*** reported in ***2013 (3) JCR 276.***

I have heard learned counsel for the parties at length and gone through the relevant materials on record. At the outset, it is to be noted that large number of vacancies in the schools in Jharkhand and specifically in the Middle School in Jharkhand which is the subject matter in the present case have remained unfilled for several years despite advertisement issued through the Examining Body like J.P.S.C. or Jharkhand Academic Council. In the instant case upon indent supplied by Human Resources Development Department, Government of Jharkhand in respect of Adv. No. 93/11, the results were finally published on 18th March, 2015 pursuant to the exam held on 29.08.2012. The present petitioners, who were either appearing candidates for B.Ed Exam or had completed their courses and were waiting for result to be declared participated in the Exam held on 29.08.2012 and had to wait for more than 2 years for publication of results in view of the circumstances that J.A.C. had to conduct special exam for two other advertisements i.e. Adv. Nos. 2/10 and 5/10 for filling the same post of teachers

in Upgraded Middle Schools, which were earlier entrusted to JPSC pursuant to directions of the Sate Government and this Court also in the aforesaid writ petitions (Annexures: B & C). Reliance is placed upon the decision rendered by the Hon'ble Supreme Court in the case of ***Naushad Anwar and Ors. Vs. State of Bihar and Ors.*** reported in ***(2014) 11 SCC 203*** where the Hon'ble Supreme Court has observed that when the selection process is lingered for four years it can hardly measure up to utmost fairness, objectivity and transparency. The appointment of such large number of persons ought to have been conducted within a time frame stipulated for the purpose or for such reasonable extension thereof as may have become inevitable.

However, the controversy in issue as earlier indicated is to be adjudged on construction of the relevant conditions of advertisement and Rules as quoted hereinabove in the factual backdrop of the case. In the opinion of the court, once the result of 24.10.2014 had been withdrawn on the advise of the State Government and the final results have been published only on 18.03.2015, the requirement of Rule 4(3)(Ga) and the conditions under the advertisement, do not stand overridden if the Respondent- JAC itself sought for submission of B.Ed. certificates and other educational qualification certificates of the participating candidates even beyond 22.09.2014 by the subsequent corrigendum notification dated 15.11.2014 and 25.11.2014. As it appears as per the construction of aforesaid conditions and Rules the petitioners were required to submit their certificate of B.Ed. before publication of the results, which in the instant case happens on 18.03.2015 only. It is also evident that respondent -JAC has called for the candidates whose results were shown pending to appear with the aforesaid educational certificate by the specific dates pursuant to Advertisement No. 75/2011 i.e. after publication of the earlier result on 24.10.2014. In view of the sequence of facts noticed hereinabove and the action of the respondent -JAC in issuing successive advertisement on 15.11.2014 and 25.11.2014, the contention of the respondent -JAC that the cut off date for submission of such certificates was

22.09.2014 only does not merit acceptance rather it is overridden by the action of the respondent -JAC themselves. In such circumstances, if the petitioners have submitted their B.Ed. certificate by the date stipulated under Adv. No. 75/11, as is their case, the respondent -JAC is not right in refusing to consider their cases while publishing final result on 18.03.2015.

One could have understood that after issuance of the notification dated 7.09.2014, asking for submission of certificates by 22.09.2014, the Respondent -JAC could have put full stop to the entire process and excluded cases of all such candidates, who had not submitted their certificates by the said date. The Respondent -JAC, however, consciously included the names of several such candidates including present petitioners in the result published on 24.10.2014 showing their cases as pending. However as has been noticed hereinabove, not only the Respondent -JAC called for all the candidates whose results were shown pending vide results published on 24.10.2014 to come with their educational qualification and other certificates (original and duly attested) by a deadline fixed, but the results of 24.10.2014 itself were not final in that respect. The Respondent -JAC not only asked such candidates to appear with their certificates by two advertisements, Annexures- F & 2 (to rejoinder) dated 15.11.2014 and 25.11.2014, but in the final result published on 18.03.2015, it is also true that the candidates who did not figure in the result of 24.10.2014 have found place. It means that the result published on 24.10.2014 neither were final nor had any sanctity in the eye of law. In view of the conspicuous facts noticed hereinabove, the contention of the respondent -JAC that the petitioners' candidature should be excluded because they failed to submit B.Ed. certificate by 22.09.2014 is not tenable in law and in facts. Therefore, the judgment relied by them in the case of ***Government of Andhra Pradesh*** (Supra) rendered by the Hon'ble Supreme Court and by the learned Division Bench of this Court in the case of ***Jiura Oraon*** (Supra) will not be of any aid to the respondent's case. It is not the case of the petitioners that

date fixed by the Advertisement dated 07.09.2014 is arbitrary and that it is required to held as such. Rather the respondent -JAC has itself extended the date of furnishing B.Ed. certificates by the Adv. No. 75/14 dated 15.11.2014 and the Advertisement dated 25.11.2014. If this is the case and Respondent -JAC on its own acts have given opportunity to the candidates whose results were shown to be pending on 24.10.2014 to submit their certificates on specified date thereafter, there is no reason why their candidature should not have been considered if at all they could have come in merit-list on the basis of their results in the recruitment exercise. Therefore, if the results published on 18.03.2015 and the recommendation to the State Government do not contain the names of the present petitioners, for the aforesaid reasons, Respondent -JAC is required to once again consider the cases of these petitioners in accordance with law if they are found to have fulfilled the criteria prescribed under the Adv. No. 93/11 and also submitted their certificates by the extended time conferred through Adv. No. 75/14 dated 15.11.2014. If the petitioners as per their results are entitled to come in the merit-list, the Respondent -JAC should prepare the revised list and send recommendation to the State Government for due consideration of the cases of such petitioners for appointment in accordance with law, thereafter as undisputedly there are large number of vacancies left even after the recommendations made as per results published on 18.03.2015 and teaching in the middle schools in the State continues to suffer because of inadequate Teaching Staff.

Let such exercise be conducted by the Respondent -JAC within a reasonable time preferably 4 weeks from the date of the receipt of the order.

Accordingly, the writ petitions are allowed in the manner and to the extent indicated hereinabove.

(Aparesh Kumar Singh, J.)

JK/Kamlesh/