



Serial No. 34
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 130 of 2021

Date of Decision: 29.08.2022

Smti. Iakmenlang Kharkongor

Vs.

State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Ms. C.B. Sawian, Adv.

For the Respondent(s) : Mr. N.D. Chullai, AAG with
Ms. I. Lyngwa, GA (For R 1-3)
Mr. E. Nongbri, Adv. (For R 4 & 5).
None for R 6.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. The brief facts of the case is that, the petitioner an Assistant Teacher at Diengkynthong Lower Primary School, by way of this instant



writ petition is assailing the appointment of the respondent No. 6 to a sanctioned post, by the respondents No. 4 and 5, which she alleges was facilitated in an illegal manner by manipulation and by showing undue favour.

2. The school in question, namely Diengkynthong Lower Primary School, an aided school receiving grants from the State, had issued an advertisement on 07.05.2019, with regard to the post of Assistant Teacher in the said school to which the petitioner, respondent No. 6 and other applicants had applied for. Subsequently, it appears a second advertisement was issued in supersession to the earlier one, on 16.01.2020, to which the petitioner including 56 other applicants took part in the written test held pursuant thereto. The petitioner, respondent No. 6, and 3 other candidates were then shortlisted for personal interview which was held on 25.02.2020, and in the said interview, the respondent No. 6, was placed in the first position and the petitioner second.

3. The main challenge to the appointment of respondent No. 6 by the petitioner is on the ground that the appointment was given to the respondent No. 6, inspite of the said respondent being overaged, and also not qualified as per the MTET norms.

4. Ms. C.B. Sawian, learned counsel for the petitioner on the grounds of challenge, has taken this Court to the record of proceedings



before the Managing Committee annexed to the writ petition, to illustrate the fact of favouritism and the pre-decided stand of the respondent Managing Committee to appoint the respondent No. 6 at all costs. In this regard, learned counsel has firstly placed an extract of a Managing Committee resolution dated 26.07.2018, wherein it was unanimously decided to appoint the respondent No. 6 in place of one Smti. Thrinsibon Syiemlieh, on her retirement, which was followed by another resolution dated 03.04.2020, on the same vein. Attention has also been drawn to the first advertisement which was subsequently withdrawn, and to the second advertisement to which selection was held. Learned counsel submits that after the said selection, the proposal for appointment of respondent No. 6, was not accepted by the State respondents, as she was overaged, which was however, persisted by the respondent Managing Committee by presenting an incorrect fact that the selection was on the basis of the first advertisement. On this incorrect representation of facts, it is submitted the impugned order appointment dated 26.02.2021, was issued by the State respondents with the direction that the respondent No. 6, was to clear the MTET eligibility test within 2 years.

5. Learned counsel has submitted that there was no selection pursuant to the first advertisement, and the said selection was conducted only after the second advertisement, wherein the petitioner was placed



second in the select list. She strongly contends that, the respondent No. 6's appointment inspite of being overaged, and not qualified was manipulated and made possible by the illegal acts of the respondent Managing Committee. As such, she prays that the impugned appointment be quashed and set aside, and the petitioner be given due consideration for appointment to the said post.

6. Mr. N.D. Chullai, learned AAG assisted by Ms. I. Lyngwa, learned GA for the State respondents submits that though objection had been raised on the proposal for appointment of respondent No. 6, on account of being overaged, the respondent No. 5 clarified that the recommended candidate was well within the permitted age, at the time of the first advertisement which was published on 07.05.2019, which led to the issuance of the impugned appointment order. He also fairly submits that, only teachers who have qualified the MTET eligibility test are eligible to be appointed as Assistant Teachers, and the respondent No. 6 at the time of appointment did not possess the same. He prays that the Court may pass appropriate orders, as the appointment appeared to be irregular.

7. Mr. E. Nongbri, learned counsel on behalf of the respondents No. 4 and 5 does not dispute the fact that, the Managing Committee under the former Secretary had resolved to make every effort to support the



private respondent No. 6, being the daughter of the former Secretary to get appointment, and this was inspite of objections being raised by the present Secretary. It is also submitted that, concerted efforts which the present Secretary had no part of, were made to facilitate the appointment of the private respondent. He also prays that appropriate orders be passed by this Court.

8. No appearance has been made on respondent No. 6, inspite of service of notice on 09.04.2021, as indicated by the postal authorities, and the same filed by way of an affidavit by the petitioner. As such, the matter is being heard ex-parte against the respondent No. 6.

9. Having heard learned counsels for the parties, the clear facts that emerge are that there has been suppression and manipulation by the then Secretary of the Managing Committee to somehow get the respondent No. 6 appointed. These facts are evident from the resolutions and clarification given to the State respondents by falsely stating that the respondent No. 6, was eligible as per the first advertisement when in fact, the same was cancelled and the selection conducted was on the basis of the second advertisement. This aspect of the case, strikes at the very core of the entire issue, inasmuch as, the respondent No. 6 on the said date of the second advertisement dated 16.01.2020, was over-aged. It is noted that, the then Secretary vide letter dated 2nd December, 2020 (Annexure



– XII to the writ petition) addressed to the respondent No. 3, had also admitted that, the first advertisement was cancelled and no such interview was held. It is therefore, not understood, as to how the approval for appointment was granted by the respondent No. 3, vide the impugned order. Furthermore, from the impugned order itself, it is revealed that on the date of the appointment, the respondent No. 6 had not cleared the MTET eligibility test.

10. In the facts and circumstances of the case therefore, the appointment being illegal on the face of the record itself, the impugned order is set aside and quashed. Consequently, the respondents shall take steps to fill up the said post by a duly qualified teacher and in this process, the petitioner may be considered in accordance with law.

11. Writ petition accordingly stands allowed and disposed of.

Judge

Meghalaya
29.08.2022
“D.Thabab-PS”