

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 1088 / 2017

Sukhchain Singh S/o Shri Kaur Singh, Aged About 30 Years, B/c
Jatsikh, R/o Village and Post Dhaba Jhalar, Tehsil Suratgarh,
District Sir Ganganagar.

----Petitioner

Versus

1. The State of Rajasthan Through the Additional Chief Secretary,
Panchayati Raj Department, Secretariat, Jaipur.

2. The Chief Executive Officer, Zila Parishad, Sirohi.

----Respondents



For Petitioner(s) : Mr.Vikram Choudhary

For Respondent(s) : Mr.Vikas Choudhary for Mr.S.S.Ladreacha AAG

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

09/02/2018

1. This writ petition under Article 226 of the Constitution of India has been preferred claiming the following reliefs:

"i) by an appropriate order or directions, for the question No.47 of annex.3 bonus marks be given as given to the petitioner as given to similarly situated persons who applied at Zila Parishad, Sri Ganganagar for the above mentioned identical question and for the question No.81 either question be nullified and bonus marks be given to the petitioner or expert committee be constituted for the above mentioned question and for Question No.140, answer D may be treated as correct or for this question, answer be evaluated by the expert committee and after allotting the bonus marks and the marks be given for the correct answers given by the petitioner and further for the nullified question

marks be given to the petitioner as well as appointment be provided on the post of IIIrd Grade Teacher (Level 2) in view of the advertisement dated 24.02.2012 for which he has applied with all consequential benefits."

2. Learned counsel for the petitioner has pointed out that the petitioner applied for the post of Teacher Grade III (Level II) in pursuance of the advertisement dated 24.02.2012. The petitioner participated in the selection process from Zila Parishad, Sirohi and claimed such appointment for the Subject of Social Studies.

3. At the outset, learned counsel for the petitioner points out that the petitioner has attempted question No.47, which is contained in Annexure-3 of the writ petition and the said question reads as under:-

"(47) Which of the following statement is not true about development

(A) A child doubles its height than what it was at birth in 5 years

(B) There is uniformity in sequence of development of a species

(C) Girls reach sexual maturity earlier than boys

(D) Left handedness is inborn"

4. Learned counsel for the petitioner states that this question in Zila Parishad, Sirohi was dealt with by the respondents as having a necessary answer (D), and thus, the marking for the same happened accordingly.

5. Learned counsel for the petitioner also pointed out from Annexure-7 of the writ petition question No.56 at Zila Parishad, Sri Ganganagar, which reads as under:-

"(56) Which of the following statement is not true about development

(A) A child doubles its height than what it was at birth in 5 years

(B) There is uniformity in the sequence of development of a species

(C) Girls reach sexual maturity earlier than boys

(D) Left handedness is inborn"



6. Learned counsel for the petitioner has further pointed out from Annexure-8 of the writ petition that question No.56 was treated by Zila Parishad, Sriganganagar as bonus marks question due to the discrepancy in the required answers. Bonus marks to question No.56 in District Sriganganagar is reflected in Annexure-8 and Annexure-9 of the writ petition.

7. Learned counsel for the petitioner further states that the State of Rajasthan is one and Teacher Grade III is a single cadre post uniformly recruited in the State of Rajasthan, and hence, the error is on the face of record, as one district for the same question is giving bonus marks, whereas the other district is denying the same.

8. Learned counsel for the petitioner further submits that it will be a mockery of justice if a young person, like the present petitioner, who seeking employment as a Teacher, is treated separately for the same question in different districts, and if there

is any doubt, then bonus marks ought to accrue in favour of the petitioner.

9. Learned counsel for the respondents has vehemently opposed the submissions made on behalf of the petitioner on the ground that the selection process had been initiated in the year 2012 and the petitioner has approached this Court at a belated stage after five years, and therefore, the petitioner cannot be permitted to seek any relief from the Court due to the delay in approaching the Court.

Learned counsel for the respondents has relied upon the following judgments of this Hon'ble Court, in support of his submissions:

(i) Naresh Sen Vs. State of Rajasthan & Ors. (S.B.Civil Writ Petition No.2292/2017 decided on 27.02.2017).

(ii) Harsha Ram Saini Vs. State of Rajasthan & Ors. (S.B.Civil Writ Petition No.533/2017 decided on 06.03.2017).

(iii) Narendra Singh Rathore Vs. Rajasthan Public Service Commission, Ajmer & Ors. (D.B.Spl.Appl.Writ No.186/2017 decided on 08.03.2017).

(iv) Venketswar Tiwari Vs. State of Rajasthan & Anr. (S.B.Civil Writ Petition No.5870/2017 decided on 19.01.2018).

10. Learned counsel for the respondents further submitted that in pursuance of the judgments of this Hon'ble Court, the questions were revised and the matters were referred to the



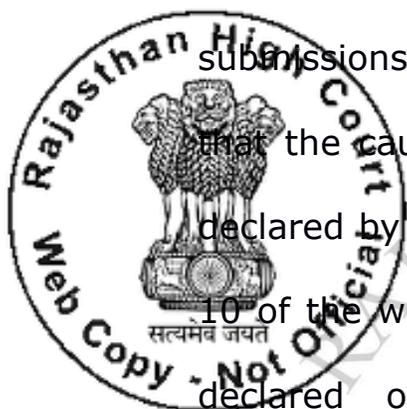
experts time and again, and thus, the petitioner had sufficient opportunity to approach the respondents, and since the petitioner did not approach and the selection process has attained finality, therefore, the petitioner now cannot claim any relief from this Court.

11. Learned counsel for the petitioner refuted the submissions made on behalf of the respondents on the ground that the cause of action arose only when the bonus marks were declared by Sriganganagar District, and it is clear from Annexure-10 of the writ petition that the result of Zila Parishad, Sirohi was declared on 19.12.2016, and immediately thereafter, the petitioner submitted a notice for demand of justice, which is Annexure-11 of the writ petition and the same was submitted on 11.01.2017, and thereafter, efficiently the petitioner has approached this Court on 21.01.2017.

12. Learned counsel for the petitioner further states that once the petitioner had effectively and efficiently raised the issue before the Court within a period of about one month from the cause of action arisen to him, then he is entitled for every protection under Articles 14, 16 and 21 of the Constitution of India.

13. Learned counsel for the respondents submitted that Annexure-7 is of series code 15 and Annexure-8 is of series 2, and thus, the petitioner's averments are doubtful.

14. Learned counsel for the petitioner however refutes the same on the ground that the questions have been noted by this Court and are verbatim same, and the respondents are not in a



position to deny grant of bonus marks for the same question. Moreover, there are two different outcomes in two different districts.

15. After hearing learned counsel for the parties as well as perusing the record of the case alongwith the judgments cited by learned counsel for the respondents, this Court is of the opinion

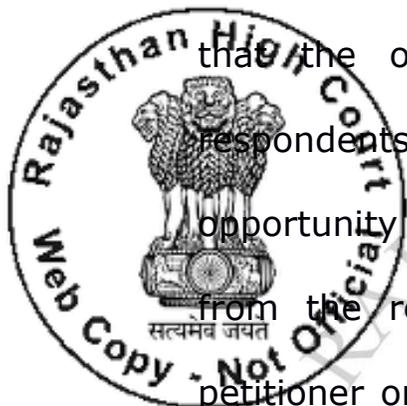
that the only argument made by learned counsel for the respondents was regarding delay and regarding previous opportunity available to the petitioner, whereas it is clearly seen from the record that the cause of action had arisen to the petitioner only when Zila Parishad, Sirohi has declared the result

on 19.12.2016, and once this result was declared and there was a discrepancy and differentiation from the other district i.e. District Sriganganagar, which is clearly reflected from the record, then the petitioner immediately took up the issue with the respondents, who ought to have considered the same on its own merits, and if required, the bonus marks should have been given to the petitioner.

16. This Court finds that on the face of it, question No.47 of Zila Parishad, Sirohi and question No.56 of Zila Parishad, Sriganganagar are absolutely word by word same, and therefore, the State of Rajasthan cannot be allowed to have two different views in two different districts regarding one question.

17. Apparently, the error is demonstrative and on the face of it, it is reflected.

18. Thus, in the opinion of this Court, the petitioner within about one month has approached this Court after giving proper

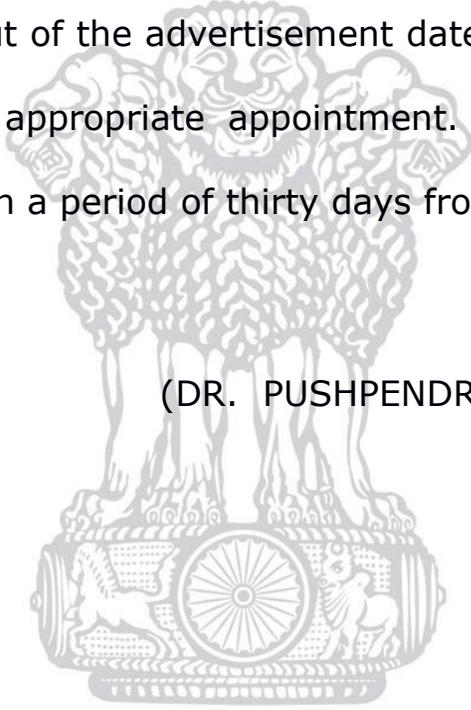
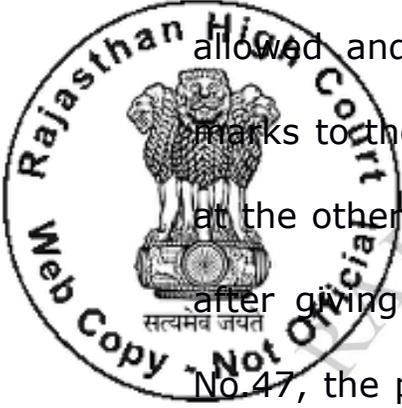


notice, and thus, is entitled to seek all relief from the Court and the same cannot be denied on the ground of the selection process was being initiated in the year 2012. The judgments cited by learned counsel for the respondents do not render any help to the respondents, in the singular facts and circumstances of the case.

19. In view of the above, the present writ petition is allowed and the respondents are directed to give three bonus marks to the petitioner, as given to the similarly situated persons at the other zila parishad i.e. Zila Parishad, Sriganganagar, and if, after giving such bonus marks for the aforementioned question No 47, the petitioner otherwise falls in merit of Teacher Grade III (Level II) arising out of the advertisement dated 24.02.2012, then he shall be given appropriate appointment. Such consideration shall be made within a period of thirty days from today.

(DR. PUSHPENDRA SINGH BHATI)J.

Skant/-



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