

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated: 6th day of May 2010

Present
Hon'ble Mr. Justice JAWAD RAHIM

And

Hon'ble Mr. Justice K. GOVINDARAJULU

WRIT PETITION No.15434/2010 (S-KAT)

BETWEEN:

SMT. GAYATHRI. V. JOSHI,
D/O. SRI VENKATESH JOSHI,
AGED 24 YEARS,
R/O BHAGHAVAN CHAL,
NAVA AYODHYANAGAR,
OLD HUBLI,
DHARWAD DISTRICT. ...PETITIONER

(BY M/S K.SREEDHAR ASSOCIATES, ADVS.,)

AND:

1. STATE OF KARNATAKA,
BY ITS PRINCIPAL SECRETARY,
HEALTH AND FAMILY WELFARE SERVICES,
(GENERAL) VIKASA SOUDHA,
BANGALORE -560 001.
2. THE DIRECTOR OF HEALTH
AND FAMILY WELFARE,
ANANDARAO CIRCLE,
BANGALORE - 560 009.
3. THE MEMBER SECRETARY,
SPECIAL RECRUITMENT COMMITTEE,
AND CHIEF ADMINISTRATIVE OFFICER,
HEALTH AND FAMILY WELFARE SERVICES,



ANANDARAO CIRCLE,
BANGALORE - 560 009.

...RESPONDENTS.

(BY SRI M.B.VISHWANATH, AGA)

WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 23.04.2010 IN APPLICATION NO.2029/10 AS PER ANNEXURE-A WITH A DIRECTION TO THE TRIBUNAL TO DECIDE THE MATTER ON ITS MERITS BEFORE PERMITTING THE PUBLICATION OF FINAL SELECT LIST.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING BEFORE THE COURT THIS DAY, JAWAD RAHIM, J PASSED THE FOLLOWING: -

ORDER

The modified interim order at Annexure-A dated 23-4-2010 passed by the Karnataka Administrative Tribunal, Bangalore, in Application No.2029/2009, is questioned in this writ petition.

2. The petitioner's grievance is, she has passed SSLC and also three years Diploma in Health Inspectors Course conducted by Para Medical Board and is fully qualified to be appointed as Junior Health Assistant. Relying upon the copy of the certificates, she approached the Tribunal seeking as principal prayer a direction to 3rd

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respondent to carve-out and reserve 30% of the posts in the category of Junior Health Assistant (Pay Scale Rs.6250 – 1200). Accepting her request for interim relief, the Tribunal had passed order of interim stay, which later came to be modified in the following terms:-

“.....the Applicants are reserved liberty to file their objections before the Special Recruitment Committee as provided in the notification dated 20-4-2010. If objections are filed by the Applicants, the Special Recruitment Committee shall examine the objections and pass a speaking order before publishing the final select list.

Accordingly, the earlier interim order is modified”.

2. The interim order came to be passed on the representation of the respondents that the Special Recruitment Committee, Karnataka Health and Family Welfare Services, has issued Notification dated 20-4-2010 publishing provisional select list of candidates for 1032 posts of Junior Health



Assistants (Male), prepared on the basis of Rule 6(1) & (2) of Karnataka Health and Family Welfare Department (Recruitment of Certain Posts) (Special) Rules, 2009. The committee has invited objections, if any, from the candidates likely to be affected on or before 5-5-2010. Noticing the said notification, the Tribunal opined that the right of the applicants is reserved to file objections before the Special Recruitment Committee as provided in the notification dated 20-4-2010. If objections are filed, the Committee shall examine the same and pass speaking order before publishing the final selection list. In effect, the interim order restrains the Recruitment Committee from publishing final list till the objections are considered.

3. The petitioner contends that she has filed objections but now seeks direction to restrain the Recruitment Committee from announcing the result of selected candidates till 30% in each category of



posts is reserved for women. Reliance is placed on Rule 9(1)(b) of Karnataka Civil Services (General Recruitment) Rules, 1977 to gain support to such contention. Learned counsel for the petitioner has also drawn our attention to Schedule appended to Notification No. HFW 388 HSM 2007 dated 26-2-2009 publishing the Recruitment Rules. We are concerned with category of posts at Sl.Nos.8 and 13, which are as follows:-

8	Junior Health Assistant (Male)	1) Pass in SSLC or equivalent qualification and Multipurpose Basic Health Worker Training OR 2) Pass in SSLC or equivalent qualification and two years Diploma in Health Inspectors training in Karnataka Vocational Board. OR 3) Pass in SSLC or equivalent qualification and three years Diploma conducted by Para-Medical Board, Karnataka. OR 4) Pass in PUC with
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		Science subjects and two years Diploma in Health Inspectors Course conducted by Para-Medical Board, Karnataka.
13	Junior Health Assistant (Female)	1) Pass in SSLC or equivalent qualification 2) Must have passed Junior Health Assistant (Female) training course from any of the Government Training Institutes in the State of Karnataka or any Institute recognized by the Govt. of Karnataka.

It is urged that the qualification for category of posts at Sl.No.8 is Diploma in Health Inspectors Course while qualification for posts at Sl.No.13 is mere training course.

4. Petitioner claims to have qualified and obtained Diploma in Health Inspectors Course and thus claims herself to be suitable for the post at Item No.8. What is urged is that, category of posts at Item 8 totalling 1286 are reserved for Male without reserving 30% of posts for female as



mandated in Rule 9(1)(b) of the Rules. This aspect is under consideration before the Tribunal. Contending that adjudication may take long and in the meanwhile if the result are announced it will result in several consequences, the petitioner seek interim order.

5. As noted in para supra, the Tribunal itself has restrained the Recruitment Committee from announcing the results till the objections are considered on merits. We do not find the apprehension of the petitioner is justified as the Tribunal itself has provided safeguard. Be that as it may, the petitioner has also filed objections before the Recruitment Committee raising similar grounds and the committee is required to consider the same. Therefore, we do not find the interim order passed by the Tribunal requires modification or interim stay as sought for is necessary.



6. We find no reason to interfere with impugned order. The writ petition is disposed off. The petitioner is at liberty to request the Tribunal for expeditious disposal of the application.

Sd/-
JUDGE

MP*

NOTE:

"This was the order dictated by me in Open Court on 06.05.2010 on behalf of the Division Bench consisting of myself and late Hon'ble Shri Justice K.Govindarajulu, with which Hon'ble Shri Justice K.Govindarajulu agreed."

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Sd/-
Chief Justice

Sd/-
JUDGE