

THE HIGH COURT OF MEGHALAYA AT SHILLONG.

WP(C) No. 149 of 2017

Smti. Disaka Elliotte Laloo, aged 35 yrs,
Daughter of Dr. D.Khonglah,
Resident of Moosalynghat, Jowai,
West Jaintia Hills District.

...Petitioner

- Versus -

1. Meghalaya Public Service Commission
Represented by its Secretary, Lachumiere,
Shillong.
2. The Chairman,
Meghalaya Public Service Commission,
Lachumiere, Shillong.
3. The State of Meghalaya, represented by
The Commissioner and Secretary to the
Govt. of Meghalaya, Health and Family
Welfare Department, Meghalaya.

...Respondents

BEFORE THE HON'BLE MR JUSTICE SR SEN

For the Petitioner : Mr. H.S. Thangkhiew, Sr. Adv.
Mr. P. Nongbri, Adv.

For the Respondents : Mr. K. Paul, Adv.
Mr. S. Sen Gupta, Addl. Sr. GA

Date of hearing : **28.06.2017**

Date of Judgment & Order : **29.06.2017**

JUDGMENT AND ORDER

Heard Mr. H.S. Thangkhiew, learned Sr. counsel assisted by Mr. P. Nongbri, learned counsel for the petitioner as well as Mr. K. Paul, learned counsel for the respondents/MPSC and Mr. S. Sen Gupta, learned Addl. Sr. GA for the State respondent No. 3.

2. The brief fact of the petitioner's case in a nutshell is that:

"The factual matrix of the case in brief is that the petitioner is a qualified Ayurvedacharya (BAMS) and has completed her course in 2004. After completing her Ayurvedacharya (BAMS) course, the petitioner underwent one year compulsory internship from 15.12.2004 to 14.12.2005. Since, April 2007 the petitioner is working as an AYUSH Physician on contract basis under National Rural Health Mission at Laskein CHC, West Jaintia Hills District.

MPSC had issued advertisement dated 26.04.2016 inviting applications for recruitment to the various categories of posts including the post of Ayurvedic Physician. The essential qualification mentioned in the advertisement was that the candidate must be a BAMS degree holder from any recognised institution of India or abroad with 1(one) year of compulsory internship from any recognized institution.

Being eligible for the post in all respects, the petitioner applied for the said post. Subsequently the selection process was duly carried out by MPSC and personal interviews were held on 22.02.2017. Based on the performance of the candidates in the selection process/interview, the select list was published by MPSC vide Notification dated 04.04.2017. In the select list one Smt. Seniorita Ginny Areng was placed at serial No. 1 and the petitioner was placed at serial No. 2. As the petitioner was declared successful at serial No. 2, she was in a secure hope that the respondents would soon issue the requisite appointment order and the petitioner would then join her service as Ayurvedic Physician under the Health and Family Welfare Department.

However, to her utter shock and surprised another Notification No. MPSC / Ex-C / 37 / 2016 – 2017 / 12 dated 06.04.2017 was

issued by MPSC stating that the Notification No. MPSC/Ex-C/37/2016-2017/9 dated 04.04.2017 shall be kept in suspended animation until further orders. The actions of the respondents in seeking to keep in abeyance the select list dated 04.04.2017 is highly illegal, arbitrary and discriminatory. Hence the instant writ petition.”

3. The learned Sr. counsel appearing on behalf of the petitioner contended that there is no prove that the petitioner is a relative or relation of the member of the interview board with regards to the interview conducted by the Meghalaya Public Service Commission (For short 'MPSC') held on 22.02.2017 to which the petitioner came out successfully. Thereafter, the MPSC might have received some complaint from different quarters that one of the interview board members is related to the petitioner and on the basis of those letters, an enquiry was conducted, but nothing concrete was established about the relative or relation of the petitioner to a member of the board. Thereafter, the respondent decided to conduct a written examination which is highly illegal and put a stigma against the petitioner. Hence, the written examination supposed to be held again may be set aside.

In support of his submission the learned Sr. counsel for the petitioner relied on the judgments passed by the Hon'ble Supreme Court in the case of ***Union of India and Ors v. Rajesh P.U. Puthuvalnikathu and Anr: (2003) 7 SCC 285 at Para 6*** and ***East Coast Railway and Anr v. Mahadev Appa Rao and Ors: (2010) 7 SCC 678 at Para 28 and 29.***

4. The learned counsel for the respondents/MPSC filed an affidavit enclosing an enquiry report dated 10th May, 2017 and argued that the interview board member Smti S.M. Laloo was related to the petitioner. Therefore, when it came to the notice and realization of the board and after receiving the complaint decided to hold a written examination. He also further contended that if the petitioner is confident why is she so anxious to face the written examination. Hence, the petition may be dismissed considering the fact that

public confidence should be maintained and also submitted the confidential report file before this Court.

5. I have perused the affidavit filed by the respondents/MPSC and after going through the said affidavit, it appears that there was some mistake and it cannot be said confidently that the board member Smti S.M. Laloo is not related to the petitioner. I have also perused the confidential file submitted by the learned counsel for the respondents/MPSC and found that the marks given to the different candidates cannot be relied upon safely as it appears that the petitioner got the highest mark, and in comparison with her marks other candidates obtained 2, 3, 4 etc. Therefore, how far the score sheet is correct and genuine cannot be ascertained.

6. Further, after analyzing the submissions, affidavits and the confidential file, I am of the opinion that there may be some mistake and error done somewhere. Therefore, the remedy left to instill confidence in the minds of the public is to conduct a written examination with proper syllabus. In the past few years, it seems there are lots of scams regarding examination results, it should not occur again and again, otherwise the confidence of the people on the examination system is bound to collapse and further more when any examination is called for, any relation or known person of any candidate should not be in the panel of the interview. Therefore, I am not in a position to interfere with the written examination as decided by the MPSC. In case, any candidate who appeared earlier has overage, his/her age is to be condoned for the fresh examination.

7. Before I part with the case record, I would like to mention to my humble understanding that the judgments relied by Mr. H.S. Thangkhiew, learned Sr. counsel for the petitioner does not cover this case.

8. Court Master is directed to return the confidential file to Mr. K. Paul, learned counsel for the respondents/MPSC immediately.

9. With this observation and direction the instant writ petition is dismissed and stands disposed of.

JUDGE

D. Nary