

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 11 of 2019

Date of Decision: 27.02.2020

Smti. Priyanka Vs. The Director, Institute of Banking
Personnel Selection (IBPS) & Ors.

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. P.T.Sangma, Adv.
For the Respondent(s) : Ms. T.Yangi B, Adv.

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| i) | Whether approved for reporting in Law journals etc: | Yes |
| ii) | Whether approved for publication in press: | No |

1. This petition has been filed by Smti. Priyanka inter alia with a prayer that the respondent be directed to appoint her in the vacant posts of Office Assistant in the Meghalaya Rural Bank by operating the reserve list.

2. The petitioner applied for recruitment of the said post pursuant to the advertisement dated 22-07-2017 issued by Institute of Banking Personnel Selection (in short IBPS) which is conducting recruitment for different Nationalized Banks of the country. Petitioner appeared in the online examination held on 12-11-2017 at Shillong. In the result declared by the respondent, she was shown in the reserved list. Twenty-one candidates were selected in the main merit list for appointment to the post of Office Assistant. However, only nine of them joined. Since the other twelve selected candidates have not joined, those vacancies remained unfilled. Therefore, a prayer is made

that the respondents be directed to operate the reserved list and confirm the appointment of the petitioner.

3. The interim order passed by the Single Bench of the High Court of Punjab & Haryana in CWP. No. 29443-2018, dated 21-11-2018 of the judgment by which a similar matter was disposed of by directing the respondents IBPS to send the reserve list to the respondent No. 2 - Bank and the respondent No. 2-Bank was directed to issue appointment order to the petitioner in accordance with law.

4. Ms. T.Yangi, learned counsel for the respondent has opposed the writ petition and submitted that respondent-Bank as per the judgment of the Supreme Court in the case of ***Rajbir Surajbhan Singh Vs. The Chairman, Institute of Banking Personnel Selection, Mumbai***; Civil Appeal No. 4455 of 2019 (Arising out of SLP(C) No. 18201 of 2015) decided on 29-04-2019 has been held to be not a State under Article 12 of the Constitution of India reported in (2019) 7SCALE 23, therefore the writ petition should be dismissed as not maintainable.

5. She also argued that the aforesaid judgment of the Single Bench of High Court of Punjab & Haryana, relied by the petitioner, was subjected to challenge by the respondent before the Division Bench of the Court in LPA. No. 7728 of 2018 (O&M), dated 25-03-2019. The Division Bench while allowing the appeal, has set aside the judgment of the Single Bench.

6. In any case this Court need not go into other aspects of the matter to decide this matter because the Supreme Court in ***Rajbir Surajbhan Singh Vs. The Chairman, Institute of Banking Personnel Selection, Mumbai*** has authoritatively held that the IBPS is not a State under Article 12 of the Constitution of India, therefore the writ petition under Article 226 of the Constitution of India would not be maintainable. The following observations of the Supreme Court are apposite to quote:

“14. The Respondents – Institute has been set up for the purpose of conducting recruitment for appointment to various posts in Public Sector Banks and other financial

institutions. Applying the test mentioned above, we are of the opinion that the High Court is right in holding that the Writ Petition is not maintainable against the Respondent. Conducting recruitment tests for appointment in banking and other financial institutions, is not a public duty. The Respondent is not a creature of a statute and there are no statutory duties or obligations imposed on the Respondent.

*15. This Court in **Federal Bank** case held that a Writ Petition under Article 226 of the Constitution is not maintainable against a scheduled bank on the ground that the business of banking does not fall within the expression “public duty”. As the activity of the Respondent of conducting the selection process for appointment to the banks is voluntary in nature, it cannot be said that there is any public function discharged by the Respondent. There is no positive obligation, either statutory or otherwise on the Respondent to conduct the recruitment tests. For the reasons above, we are of the considered opinion that the Respondent is not amenable to the Writ Jurisdiction under Article 32 or Article 226 of the Constitution of the India.”*

7. In any case, the respondent-IBPS holds the recruitment for large number of Banks throughout the country, therefore, it has to be one-time exercise. When the candidates are selected on merit to different Banks, even if some of the candidates do not join, it is difficult to undertake another exercise for operating the reserve list, which is possible, only if the recruitment is held by a single recruitment agency for one employer or the employer itself.

8. Writ petition is therefore dismissed as not maintainable.

(Mohammad Rafiq)
Chief Justice

Meghalaya
27.02.2020
“Samantha PS”