



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

S.B. Civil Writ Petition No. 4962/2017

Ram Chandra Kadela S/o Shri Mangi Lal Kadela, R/o Inside 3Rd Pole, Keghwalon Ki Basti, Mahamandir, Jodhpur, Rajasthan.

-----Petitioner

Versus

1. The State Of Rajasthan Through The Secretary To The Government, Department Of Higher Education, Government Of Rajasthan, Secretariat, Jaipur.
2. The Secretary, Rajasthan Public Service Commission, Ajmer.

-----Respondents

For Petitioner(s) : Mr. D.S. Sodha  
Mr. Manvendra Singh  
For Respondent(s) : Mr. Mahesh Thanvi

**HON'BLE MR. JUSTICE ARUN MONGA**  
**Order (oral)**

**Reportable**

**04/04/2024**

1. Grievance of the petitioner stems out of a corrigendum dated 01.09.2016 (Annexure-5) issued by respondent No. 2, vide which the reservation for Blind / Low Vision candidates was revoked for the post of Lecturer, Music (Vocal), pursuant to advertisement dated 12.01.2015 (Annexure-2).
2. Relevant facts are:
  - 2.1 Petitioner is presently working on the post of Senior Teacher Grade II in the Secondary Education Department, Government of Rajasthan and is posted at Government Blind School, Deendayal Upadhyay Colony, Anganwa, Jodhpur.
  - 2.2 RPSC issued an advertisement dated 12.01.2015 inviting applications for the post of Lecturers. During pendency of selection process, a corrigendum dated 04.03.2016 was issued whereby, number of vacancies for the post of Lecturer, Music



(Vocal) was increased from 7 to 8, out of which, one post was kept reserved for Blind / Low Vision candidates.

2.3 After subsequent rounds of examinations, a corrigendum dated 01.09.2016 was issued by respondent No. 2 stating therein that the respondents have changed reservation for Music (Vocal) Blind and removed the reservation previously provided in the advertisement. Aggrieved by the actions of the respondents, petitioner preferred the instant writ petition.

3. Stand taken in the reply filed on behalf of Respondent No. 2 is:

3.1 The petitioner's case *prima facie* revolves around the reservation provided in the advertisement dated 12.01.2015, whereby one post was reserved for blind / low vision candidate. However, vide a press-note / corrigendum dated 01.09.2016, the said reservation of post was removed.

3.2 Furthermore, the classification for category-wise / reservation of the posts are done by the department concerned and the corrigendum was issued on the basis of information received by the department regarding classification of the post. The petitioner has not obtained even minimum cut off marks under his category and that is why he was declared unsuccessful.

4. In the aforesaid backdrop, I have heard the arguments of learned counsel for the petitioner and perused the case file. Nne appears for the respondents. However, I have gone through the reply filed by the respondents and shall proceed to render my opinion on the basis of the stand taken in the same and in the light of arguments addressed by learned counsel for the petitioner.



5. Short controversy involved herein is whether the candidature of the petitioner could have been rejected for horizontal reservation in the physically handicapped category on account of his being visually impaired. The answer to the same is in the negative. Let us see how.

6. First and foremost, pertinent it is to note that the visual impairment of the petitioner in no manner impedes with the of duties to be performed by him. He is currently working as a Senior Teacher in Music (Vocal) and is / was aspirant for the post of School Lecturer in Music (Vocal).

7. It is thus common sense that being a Teacher in vocal music, all that is required to be seen is the vocal cords and not the visual impairment. In any case, even if one were to take the view that visual impairment may at times hinder with his ability, the same is of no significance in view of the benevolent provisions enacted by the Parliament vide Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the rules framed therein. Reference may be had to Chapter VI and Rule 33 framed therein, which being apposite, is reproduced hereinbelow:-

"33. Reservation of posts. – Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from –

- (i) blindness or low vision;
- (ii) hearing impairment;
- (iii) locomotor disability or cerebral palsy, in the posts identified for each disability;

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."



8. A bare perusal of the aforesaid provisions clearly reflects that the respondents are under statutory mandate to accord 3 per cent reservation for disabled persons. In the instant case, for no plausible reason, the respondents have summarily removed the reservation for the post of Lecturer, Music (Vocal) while on the other hand, similar reservations are being accorded for the other posts. Such a discriminatory approach cannot be appreciated and is deplorable, to say the least.

9. On that short premise alone, the writ petition deserves to be allowed. It is so ordered. However, it is made clear that the petitioner shall be given the benefit of the reservation only if he has been found meritorious in the selection process.

10. It transpires that during pendency of the writ petition vide an interim order, respondents were directed to consider the candidature of the petitioner on provisional basis, but his result was directed to be kept in seal cover.

11. Accordingly, it is directed that the respondents shall open the sealed cover and in case, the result is in favour of the petitioner, they shall immediately accord him benefit of the same.

12. In the aforesaid premise, needless to say that in case petitioner is successful, the steps will be taken to issue appointment letter within a period of 30 days from the date the petitioner approaches the respondent authorities with a web print copy of the instant order.

**(ARUN MONGA),J**

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