

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
W.P.(C) No.1522 of 2019**

Basanti Kerketta, aged about 29 years D/o Amush Kerketta, resident of Village-Simhatu Padra Pani, P.O. & P.S. Bano, District-Simdega.

..... Petitioner

Versus

1. State of Jharkhand through its Chief Secretary, Government of Jharkhand, Project Bhawan, Dhurva, Ranchi P.O. and P.S. Dhurva, District-Ranchi.
2. Secretary, Department of Personnel, Administration Reform and Rajbhasa, Government of Jharkhand, having office at Project Bhawan, Dhurva, Ranchi P.O. and P.S. Dhurva, District-Ranchi.
3. Secretary, Department of School, Education and Literacy, Government of Jharkhand having office at Project Bhawan, Dhurva, Ranchi P.O. and P.S. Dhurva, District-Ranchi.
4. Secretary, Department of Human Resource and Development, Government of Jharkhand, having office at Project Bhawan, Dhurva, Ranchi P.O. and P.S. Dhurva, District-Ranchi.
5. Jharkhand Staff Selection Commission through its Secretary having its office at Chai Bagan, Namkom P.O. and P.S. Namkom, District-Ranchi.
6. Controller of Examination, Jharkhand Staff Selection Commission having its office at Chai Bagan, Namkom P.O. and P.S. Namkom, District-Ranchi.

..... Respondents

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**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

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For the Petitioner : Mr. Amritansh Vats, Advocate  
For the Respondents : Mr. Sanjay Piprawall, Advocate  
Mr. Prince Kumar, Advocate  
Mr. Rakesh Ranjan, Advocate  
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**03/Dated 22<sup>nd</sup> April, 2019**

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder a direction has been sought for upon the respondents to recommend the name of the petitioner for appointment to the post of Teacher (Sanskrit) pursuant to Combined

Graduate Trained Teacher Competitive Examination-2016 in terms of Advertisement No.21/2016 since she has qualified in all events but could not properly be communicated for appearing in document verification procedure as per the date prescribed, her candidature was rejected as also for quashing the notice dated 04.02.2019 as contained in Memo No.1854 whereby and whereunder the candidature of the petitioner was rejected since she could not appear in the document verification procedure.

2. It is the case of the petitioner that in terms of the Advertisement No.21/2016 which has been published for appointment of teacher in the examination conducted in the name of Combined Graduate Trained Teacher Competitive Examination-2016 conducted by Jharkhand Staff Selection Commission in which she has participated and declared to be successful in the written examination, thereafter she was supposed to appear before the concerned respondent for document verification but could not be able to present herself on or before the date provided and in consequence thereof, her candidature was rejected against which this writ petition has been filed *inter alia* on the ground that the petitioner is living in the remote area of the district of Simdega where there is no facility of internet and therefore, due to the reason beyond her control, she could not be able to present herself on or before the date of scrutiny of its testimonials, therefore, the authorities have rejected her candidature, the same is nothing but an arbitrary action on their part since they have not taken into consideration the difficulty which is being faced by the candidates living in the remote areas and further the plea has been taken by referring to the condition as stipulated under condition No.4(kha) whereby and whereunder it has been provided that before cancelling the candidature, adequate opportunity of hearing to such candidates would be provided.

Further ground has been taken during the said course that the petitioner was suffering from physical ailment and in order to substantiate the argument, a medical certificate has been annexed to the writ petition.

3. Mr. Sanjay Piprawal, learned counsel appearing for the Jharkhand Staff Selection Commission has vehemently opposed the ground and submission advanced by the learned counsel for the petitioner by arguing that the terms of advertisement is binding upon one or the other candidates.

The terms of the advertisement is that the candidate is to obtain the on-line application form and submit it through on-line mode and will get the e-admit card and in pursuance to the said process the petitioner has offered her candidature for being considered as a candidate for selection of teacher in the Sanskrit subject in which although she has been declared to be successful, as per the condition stipulated in the advertisement she was to appear on 05.12.2018 for verification of the document but could not be able to present herself, therefore, in spite of giving specific terms stipulated in the terms of advertisement, her candidature was rejected.

It has been submitted that not only one opportunity was given to the petitioner rather three opportunities were given and even though the petitioner was not able to present herself for verification of the documents.

He further submits that the medical report which has been produced is dated 25.01.2019 while the petitioner was supposed to appear on 05.12.2018 and hence, the certificate which has been brought on record dated 25.01.2019 has got no nexus with the physical ailment as on 05.12.2018, the date when she was required to appear for scrutiny of the document and therefore the ground which has been urged by the petitioner is not fit to be considered.

He submits that the petitioner with the naked eyes has participated in the process of selection after going across the terms and conditions of the advertisement wherein the specific conditions have been mentioned for each and every process and after cancellation of her candidature now she is questioning the terms and conditions of the advertisement by arguing that the on-line mode

ought not to have been stipulated in the notice inviting application rather the direct mode i.e., through postal, was to be resorted to but once the petitioner has participated in the process of selection, she is seized from challenging the terms and conditions of the advertisement and therefore, on this ground also, the petitioner has got no case.

4. Having heard the learned counsel for the parties and on appreciation of their rival submissions, it is evident from the material available on record that one advertisement was published being Advertisement No.21/2016 (Annexure-1) inviting applications from one or the other candidates for filling up the post of graduate trained teacher in different subjects one of the subject was Sanskrit to which the petitioner was applicant.
5. It is evident from the terms and conditions of the advertisement that on-line application was to be obtained and to be submitted and thereafter the on-line admit card is to be issued by the Commission, in pursuance thereto, the petitioner's candidature has been accepted and the on-line admit card was issued and thereafter the petitioner has participated in the written examination in which she has been declared to be successful.

It is further evident that as per the condition stipulated in the advertisement, a candidate, if found to be successful in the written examination was to present himself/herself on a particular date fixed for scrutiny of the document/testimonials.

It is further evident that notice has been issued for inviting attention to the successful candidate who have been declared successful in the written examination on 04.09.2018 and 07.09.2018 and thereafter on 20<sup>th</sup> November, 2018 (Annexure-4) asking the candidate to present himself/herself before the competent authority for scrutiny of the documents but the petitioner has failed to appear on the date fixed i.e., on 05.12.2018 in between 10.30 a.m. to 01.30 p.m. and she was also required to appear on that date having roll no.11136127383 (page 49 to the brief).

6. The authority by following the terms and conditions of the notice inviting application has passed the order making reference of the three dates asking the candidates including the petitioner to appear for document verification but having failed to do so, her candidature has been rejected, which is under challenge in this writ petition.
7. It is not in dispute that a condition if inserted in the notice inviting application is binding upon the candidates once the candidate participated in the process.
8. The petitioner admittedly has participated by going across the terms and conditions of the advertisement wherein it has been provided that everything is to be done on-line i.e., on-line application, on-line admit card and on-line communication, the petitioner has been able to get the on-line application and the on-line admit card while living in the remote area of the district of Simdega as the petitioner claims but due to the remote area, she could not be able to get the connectivity regarding knowledge of the date for scrutiny of the document due to non-communication of the date dated 05.12.2018, the day when the date for document verification was fixed.
9. The petitioner has tried to impress upon the Court on two grounds:-

The first ground is that she is living in the remote area in the District of Simdega and second that she was ill therefore, the reasons were beyond her control.

So far as this ground regarding internet facility of the district of Simdega is concerned, the same cannot be a ground for accepting the candidature of the petitioner, more particularly, taking into consideration the fact that the petitioner is seeking appointment as Teacher in Sanskrit, that too as a Trained Graduate Teacher and further she has obtained on-line application and got the on-line admit card and therefore, the ground of connectivity problem cannot be said to be a valid ground warranting this Court to extend relaxation to the petitioner by extending the date of scrutiny of the document.

It needs to refer that the writ Court cannot extent any extension by way of relaxation to one candidate if the relaxation would be given to one candidate, the question would be why not to others and therefore, this Court sitting under Article 226 of the Constitution of India is not supposed to extend by relaxing the condition stipulated in the terms and conditions of the advertisement.

Second ground has been taken that she was physically ill and to impress upon the Court, a medical report dated 25.01.2019 has been annexed along with some Patheological report as also the submission made in paragraph 8 and 9 to the writ petition but question herein is that the date for scrutiny of document was fixed on 05.12.2018 and thrice communications have been made, even accepting the plea of the petitioner about her ailment but when the certificate about the physical ailment on or before 05.12.2018 is not on record rather the certificate is dated 25.01.2019 and therefore, in absence of any medical report on or before 05.12.2018, the certificate dated 25.01.2019 cannot be aid to the petitioner's ground.

10. Learned counsel for the petitioner has relied upon the judgment passed by the Division Bench of this Court in the case of ***Rekha Kumari Barnwal vs. The State of Jharkhand through Secretary, Social Welfare Department and Ors.***, reported in ***2017 3 JLJR 279.***

It is settled position of law that each and every judgment is to be tested on the basis of the factual aspect and there is no universal applicability of the judgment.

In view of settled position, this Court has gone across the factual aspect involved in the said case and has found that the question involved therein is regarding the list of the successful candidate published in the "Prabhat Khabar" and on the basis of that a date has been fixed inviting attention of one or the other candidates to appear before the authority for verification of document but the appellants of the said case has failed to appear, basis upon which her candidature was rejected against which she has come to this Court

invoking the extraordinary jurisdiction conferred under Article 226 of the Constitution of India which has been dismissed against which intra court appeal was filed whereby and whereunder the order passed by the writ Court has been quashed taking into consideration the fact about the miscarriage of justice and the communication to be made by way of direct mode i.e., post.

So far as the factual aspect involved in this case is concerned, the advertisement wherein each and everything was to be done on the basis of on-line even the admit card was to be issued on-line and the petitioner with all consciousness has made the application on-line and thereafter the process time was given and as such after failing to appear before the authority for scrutinizing the document, she cannot take the plea at this stage that the communication ought to have been made through post as because once advertisement has been issued specifying the terms and conditions, it is binding upon the parties and once the application has been made in terms thereof, a candidate who has participated in terms of the said advertisement cannot turn around and extent the condition stipulated in the advertisement.

In view of the factual aspect involved in this case, more particularly, the specific stipulation made regarding the process to be conducted on-line, the judgment rendered by the Division Bench of this Court having been relied upon by the petitioner is not applicable in the facts and circumstances of this case.

11. In view thereof and in the entirety of the facts and circumstances as discussed, the writ petition fails and is dismissed.

**(Sujit Narayan Prasad, J.)**