



W.P.(S) No. 4182 of 2015

Shankar Prasad Singh

... .. Petitioner

V E R S U S

1. The State of Jharkhand through the Secretary/ Principal Secretary, Human Resource Development Department, Government of Jharkhand, Ranchi
2. The Director, Higher Education, having office at Higher Education Directorate, Project Building, Dhurwa, Ranchi
3. Jharkhand Public Service Commissioner, through its Chairman, Circular Road, Ranchi
4. Secretary, Jharkhand Public Service Commissioner, Circular Road, Ranchi
5. Public Information Commission-cum-Section Officer, Jharkhand Public Service Commissioner, Circular Road, Ranchi
6. Jharkhand State Information Commission, through its Secretary, having its office at Engineers Hostel No. 2, HEC Campus, Dhurwa, Ranchi
7. Central Bureau of Investigation through its Director, having its office at 6th Floor, Lodhi Road, Plot No. 5-B, CGO Complex, Lodhi Road, New Delhi.

... .. Respondents

CORAM : HON'BLE DR JUSTICE S.N. PATHAK

For the Petitioner

Ms. Neha Bhardwaj, Advocate

For the Respondents

Mr. Sanjay Piprawal, Advocate

Mr. Prince Kumar, Advocate

Mr. Rakesh Ranjan, Advocate

For the State

Mr. Rakesh Kumar Shahi, AC

08/05.04.2023 Petitioner was the candidate for appointment to the post of Lecturer in the subject History pursuant to the Advertisement No. 01/2007, published in daily Hindustan, Ranchi dated 31.01.2007. Petitioner being eligible in all respect, applied for the same and after different stages of selection, appeared in the interview held on 01.09.2007 along with requisite testimonials. It is specific case of the petitioner that he performed well in the interview and was hopeful of being selected. However, his name did not figure in the list of finally selected candidates. Thereafter, petitioner filed an application under Right to Information and sought information from the Jharkhand Public Service Commission as to what was the cut-off marks for appointment to the post of Lecturer in the subject History and what was the marks obtained by the petitioner. However, no information was given by the Jharkhand Public Service Commission in the garb of Section 8(1)(h) of Right to Information Act, 2005. On Appeal also no information was



furnished in view of specific stand of the Jharkhand Public Service Commission that the information cannot be given in view of provisions of Section 8(1)(h) of Right to Information Act, 2005. Aggrieved by the same, petitioner has approached this Court as neither he has been given any information regarding the marks obtained nor his application has been entertained by the Information Commissioner.

Ms. Neha Bhardwaj, learned counsel appearing for the petitioner strenuously urges that the petitioner is entitled for the information as to what marks had been obtained by him and what was the cut-off marks of the last selected candidate in his subject. She further draws attention of this Court towards Annexure-25 of the writ petition and further submits that in case of similarly situated person namely Dr. Kumari Bharti Singh, who was also the candidate for Lecturer, information was provided to her regarding the marks obtained by her in the interview and the cut-off marks of the last selected candidate. In case of the petitioner, he has been discriminated just to frustrate his claim and a different stand has been taken by the Commission. The writ petition is fit to be allowed.

Mr. Sanjay Piprawal, learned counsel appearing for the JPSC submits that at the relevant time the matter was being investigated by the investigating agency – Vigilance and thereafter the same was handed over to the Central Bureau of Investigation and as such the Commission was not able to provide information to the petitioner. Learned counsel further refers to para-10 of the counter affidavit filed by the Commission and submits that case of the petitioner cannot be compared with the case of Dr. Kumari Bharti Singh. At the relevant point of time when petitioner sought information, the documents relating to said advertisement was already in the custody of the investigating agency and as such the Commission was not able to give any information to the petitioner.

Mr. Rakesh Kumar Shahi, learned counsel representing State submits that the Jharkhand Public Service Commission is the contesting respondent and this writ petition is not maintainable in view of the fact that the petitioner has now already crossed the age for appointment as a Lecturer.

Whatever be the reason for non-selection of the petitioner, the petitioner is entitled to know the same. The respondents cannot claim that in view of provisions of Section 8(1)(h) of Right to Information Act, 2005, the information cannot be provided to the petitioner. It is case of the petitioner



that similar information was sought by one Dr. Kumari Bharti and she was provided the information but in the garb of provisions of Section 8(1)(h) of Right to Information Act, 2005, petitioner is being discriminated. This is callous approach of the Commission and the same is not appreciated. The Commission is the Statutory Body of the State and cannot be allowed to discriminate between the two candidates. May be at this stage petitioner has crossed the age for appointment. Nothing has been brought on record to show that he has crossed the age limit.

From the averments made in the writ petition and arguments advanced by the parties, I find following issues are involved

- (i) *Whether petitioner is entitled for the information sought for from the Jharkhand Public Service Commission?*
- (ii) *Whether the respondents can take shelter of provisions of Section 8(1)(h) of Right to Information Act, 2005?*
- (iii) *Whether information sought for by the petitioner comes under the purview of Section 8(1)(h) of the Right to Information act, 2005:*

Let the Central Bureau of Investigation be impleaded as a party – respondent in the array of respondents.

Let two copies of the writ petition along with annexures be served upon Mr. P.A. S. Pati, learned counsel appearing for the Central Bureau of Investigation.

The newly added respondent – Central Bureau of Investigation is directed to file specific affidavit bringing on record

- (i) *When the documents pertaining to Advertisement No. 1/2007 was seized?*
- (ii) *Whether documents relating to the petitioner is still in the possession of the CBI?*
- (iii) *Whether at this stage petitioner can be provided information sought for by him regarding cut-off marks and the marks obtained by him in the Interview?*

As prayed, put up this case after three weeks.

Let a copy of this order be handed over to counsel appearing for the respondents.

(Dr. S.N. Pathak, J.)