

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 582 of 2023

Mina Kumari and Others

... .. **Petitioners**

Versus

State of Jharkhand and Ors.

... .. **Respondents**

With

W.P. (S) No. 6775 of 2018

With

W.P. (S) No. 111 of 2023

With

W.P. (S) No. 148 of 2023

With

W.P. (S) No. 301 of 2023

With

W.P. (S) No. 755 of 2023

With

W.P. (S) No. 937 of 2023

With

W.P. (S) No. 1476 of 2023

With

W.P. (S) No. 1503 of 2023

With

W.P. (S) No. 1840 of 2023

With

W.P. (S) No. 2777 of 2023

With

W.P. (S) No. 3273 of 2023

With

W.P. (S) No. 3355 of 2023

With

W.P. (S) No. 3890 of 2023

With

W.P. (S) No. 4326 of 2023

With

W.P. (S) No. 4664 of 2023

With

W.P. (S) No. 6157 of 2023

With

W.P. (S) No. 6907 of 2023

With

W.P. (S) No. 422 of 2024

With

W.P. (S) No. 462 of 2024

With

W.P. (S) No. 727 of 2024

With

W.P. (S) No. 2528 of 2024

With

W.P. (S) No. 2716 of 2024

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner(s)	: Mr. Ajit Kr. Sinha, Sr. Adv. (through V.C.) : Mr. Ravi Kumar, Advocate : Mr. Ajit Kumar, Sr. Advocate : Mr. Shekhar Prasad Gupta, Advocate : Mr. Kunal Chandra Suman, Advocate : Mr. Abdullah Umar, Advocate : Mr. Gauraw Kumar, Advocate : Mr. Syed Hozaita Arsh, Advocate : Mr. Ravi Kumar, Advocate : Mr. Rahul Kamlesh, Advocate : Mr. Vishal Kumar, Advocate : Mr. Rakesh Kumar Roy, Advocate : Ms. Shilpi, Advocate : Mr. Kamdeo Pandey, Advocate : Mr. Manoj Kr. No. 4, Advocate : Mr. Chanchal Jain, Advocate
For the JSSC	: Mr. Sanjoy Piprawall, Advocate : Mr. Rakesh Ranjan, Advocate : Mr. Prince Kumar, Advocate
For the State	: Ms. Divya, AC to SC III : Mr. Shivam Anand Pathak, ADvocaate : Mr. Sachin Kumar, AC to SC I
`	: Mr. Luv Kumar Tiwary, AC to AAG V : Mr. Anshuman Kumar, AC to SC (L&C) II : Mr. Uttam Kumar Das, AC to GP 6 : Mrs. Chaitali C. Sinha, AC to AAG I-A : Mrs. Pinky Tiwary, AC to AG : Mr. Rahul Saboo, Advocate : Mr. Gaurang Jajodia, AC to GP II : Mr. Raunak Sahay, Advocate : Ms. Shilpi, AC to SC (Mines) II

: Mr. Mr. Anil Kumar Singh, AC to GP I
: Mr. Devesh Krishna, Advocate
: Mr. Faizal Allam, Advocate
: Mr. Anuj Kumar Trivedi, Advocate
: Mr. Rohit Kumar Gupta, Advocate
: Mr. Nawal Kishor Pandey, Advocate
: Mr. Uttam Kumar, Advocate
: Mr. Rahul Dev, Advocate

10/19th June 2024

1. Learned counsel for the parties are present.
2. During the course of hearing, it transpired that essentially the matter relates to implementation of the order passed by the Hon'ble Supreme Court. It is not in dispute that the persons who were already appointed in the case of Soni Kumari and other analogous cases their appointments have been saved by the Hon'ble Supreme Court and there is specific direction by the Hon'ble Supreme Court under Article 142 of the Constitution of India with regard to filling up of the remaining vacant advertised posts and for that purpose the learned counsels have submitted that state wise merit list with respect to each subject and further bifurcation category wise is required to be prepared by the respondent-JSSC.
3. Learned counsel appearing on behalf of respondent-JSSC has submitted that though different cut off marks for different categories and for different subjects is there in different districts of the State of Jharkhand, but in terms of the judgment passed by the Hon'ble Supreme Court, a state wise merit list is to be prepared and the minimum cut-off marks of last selected candidates in each subject and under each category is to be taken into consideration. Therefore, from amongst the various districts whatever be the minimum cut-off marks of the last selected candidates (category wise and subject wise) , the same would be the basis for the preparation of merit list for those candidates who have received marks above such cut-off marks and after preparation of state wise merit list, the recommendation is to be made on the basis of such merit list. The learned counsel submits that the selection process is going on and a number of

candidates have already been appointed in terms of the direction issued by the Hon'ble Supreme Court.

4. Paragraph 28 of the judgment passed by the Hon'ble Supreme Court in Civil Appeal No. 4038 of 2022 with other analogous cases is quoted as under: -

““In view of the above discussion and for the reasons stated above, we uphold the common impugned judgment and order passed by the High Court declaring the impugned Notification/Order dated 14.07.2016 as unconstitutional and ultra vires Articles 14, 16(2), 16(3) and 35(a-i) of the Constitution of India. We are in complete agreement with the view taken by the High Court. Present Appeals challenging the impugned common judgment and order passed by the High Court are hereby dismissed to the aforesaid extent.

However, at the same time, the directions issued by the High Court in the impugned judgment and order while setting aside all the appointments made pursuant to the Notification / Order dated 14.07.2016 and Advertisement No.21 of 2016 dated 28.12.2016 as modified on 04.12.2017 and to go in for fresh/de novo recruitment process for the Scheduled Areas/Districts is hereby modified. It is now directed that instead of fresh/de novo recruitment process by setting aside the appointments already made in the Scheduled Districts/Areas, the State shall revise the merit list based on the already published cut off obtained by the last selected candidates in each TGT subject against the respective categories with respect to entire State and respective candidates belonging to the non-Scheduled Areas and Scheduled Areas (Districts) shall be adjusted accordingly on the basis of individual merit of the candidates. The present directions are issued considering the peculiar facts and circumstances of the case and more particularly considering the fact that there are already vacant posts of teachers in the State (in both Scheduled and non-Scheduled Area). We are of the view that if the appointments already made are set aside and fresh de novo recruitment process for such posts is initiated, a number of schools in the Scheduled Areas shall be without any teacher which may ultimately affect larger public interest and education of concerned children in the Scheduled Areas.

Present direction is issued in exercise of powers under Article 142 of the Constitution of India in the larger public interest of Scheduled Areas/Districts.

Present appeals are partly allowed to the aforesaid extent modifying the impugned common judgment and order passed by the High Court as observed herein above.

In the facts and circumstances of the case, there shall be no order as to costs.”

5. This batch of writ petitions involves case of different candidates who have applied under different subjects in the said recruitment process.

6. Learned counsel for the respondent-JSSC is directed to seek instructions and file merit list with respect to each subject [subject wise and category wise] which have been prepared pursuant to the order passed by the Hon'ble Supreme Court. The affidavit should clearly indicate the cut-off marks of the last selected candidate district wise and category wise in each subject so that the cut-off marks which has been taken for the entire State of Jharkhand for each subject will also reflect in the counter-affidavit.
7. The counter-affidavit should be filed in W.P. (S) No. 3273 of 2023 and the said affidavit will be considered in all the cases involved in this batch of cases .
8. Let the affidavit of JSSC be filed latest by 29.07.2024.
9. Post these cases on 01.08.2024.

(Anubha Rawat Choudhary, J.)

Mukul