

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

S.B. Civil Writ Petition No. 17396/2023

Ms. Shubhra Panwar D/o Shri Ashok Kumar Panwar, Aged About 40 Years, R/o Behind Geetanjali School, Mahamandir, Jodhpur (Obc/w/divorced).

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Principal Secretary, Department Of Public Health And Engineering Secretariat, Jaipur (Raj.).
2. The Commissioner (Inquiry), Department Of Personal (Dop) And Training, Secretariat, Jaipur (Raj.).
3. The Union Of India, Ministry Of Home Affairs Through Its Director, Major Dhyan Chand National Stadium, India Gate, New Delhi.
4. The Deputy Secretary To The Government, Department Of Personal (K-3/inquiry), Secretariat, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Pankaj Mehta
For Respondent(s)	:	---

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

01/12/2023

Learned counsel for the petitioner submitted that a charge-sheet dated 08.07.2021 has been served upon the petitioner by the respondents on the ground that she being a Kenyan National is required to produce a "certificate of eligibility" for employment in the respondent-department. However, even after joining respondent-department on the post of Assistant Engineer w.e.f. 11.10.2017, she has not submitted a certificate of eligibility before the department, till date.

Drawing attention of the Court towards office memorandum dated 10.05.1978 issued by the Government of India, Ministry of Home Affairs, learned counsel submitted that the Government of India by the aforesaid office memorandum has already clarified that an individual candidate is not required to approach the Government of India or its Ministry directly for the issuance of "certificate of eligibility". It is for the appointing authority concerned to approach the Ministry/Department administratively concerned, for issuance of the certificate. Learned counsel submitted that from the perusal of the office memorandum dated 10.05.1978, it is evident that petitioner is not at fault and if certificate of the eligibility qua the petitioner is required then the appointing authority is required to approach the concerned Ministry/Department of Government of India for issuing of "certificate of eligibility" in favour of the petitioner. Learned counsel further submitted that the charge sheet issued against the petitioner vide memorandum dated 08.07.2021 is arbitrary and unjust.

The matter requires consideration.

Issue notice to the respondents, returnable on 12.02.2024.

In the meanwhile and untill further order the disciplinary proceedings initiated against the petitioner in pursuance of impugned charge sheet dated 08.07.2021 (Annex.20) shall remain stayed.

(KULDEEP MATHUR),J