



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

S.B. Civil Writ Petition No. 10564/2023

Radha D/o Karnaram, Aged About 29 Years, By Caste Mali , R/o
Tak Krishifarm, Bera Magrala Village Binjwadiya, Tehsil Tinwari
And District Jodhpur

-----Petitioner

Versus

1. The State Of Rajasthan, Through The Secretary,
Department Of Rural Development And Panchayati Raj,
Government Of Rajasthan, Secretariat, Jaipur
2. The Chief Executive Officer, Zila Parishad Jodhpur, District
Jodhpur (Raj)

-----Respondents

For Petitioner(s) : Mr. Dinesh Kumar Joshi
For Respondent(s) : Mr. I.R. Choudhary – AAG
Mr. Pawan Bharti

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

18/03/2025

1. The petitioner, aspirant for the post of L.D.C., is before this Court seeking issuance of writ in the nature of mandamus and/or pass appropriate directions commanding the respondents to offer her appointment claiming that the candidates with lesser merit than her, as per the result declared by the respondents, have been appointed in the same category i.e. OBC wherein the petitioner had applied. In the alternative, she seeks issuance of writ in the nature of certiorati to quash the entire selection process same being marred with favouritism and suffering from vice of arbitrariness.



2. Brief facts, as pleaded in the petition are that an advertisement was issued for the post of LDC in 2013. The petitioner, being eligible, applied for the post under the OBC Female category. Subsequently, a list was published by the Zila Parishad, Jodhpur, but the petitioner's name was not included for appointment. After 2013, the selection process was put on hold due to orders passed by this Court. Ultimately, the matter was resolved in November 2016.

2.1. On 07.09.2022, an order was issued by the State Government to resume the selection process for 4,000 LDC posts, of which 707 posts were allocated for Jodhpur.

2.2. Pursuant to the aforementioned order, the first waiting list was issued on 01.10.2022, with document verification scheduled for 06.10.2022. Following this, the second waiting list was issued, and the third waiting list was released on 17.10.2022, with document verification scheduled for 18.10.2022. The petitioner scored 56.444 marks, and her name appeared at S.No. 145 under the OBC Non-Creamy Layer Female category.

2.3. In pursuance of the notice dated 17.10.2022 and the third waiting list, the petitioner was called for document verification. However, she was not selected due to her lower merit compared to the selected candidates. After the selection process concluded, the petitioner retrieved her original documents from the Zila Parishad, Jodhpur.

2.4. Subsequently, the Zila Parishad, Jodhpur, vide a notice dated 21.07.2023, issued the fourth waiting list for recruitment to the LDC post and instructed candidates to submit their claims by 24.07.2023 and undergo document verification on 25.07.2023. It



is pleaded that since the petitioner scored 56.644 marks, she should have been appointed to the LDC post. However, her name was not included in the merit list without any valid reason, while 32 candidates with lower marks than the petitioner were included in the fourth waiting list under the OBC Non-Creamy Layer Female category. Hence, this petition.

3. Defence taken in the reply is that pursuant to the press note dated 14.10.2022 issued by the Zila Parishad, Jodhpur, for document verification, the petitioner appeared on the specified date and had her documents verified. It is further submitted that the press note dated 14.10.2022 contained a specific condition regarding the original documents of candidates, clearly stating that if a candidate submitted his/her original documents to the Zila Parishad, those documents would only be returned after completion of the final selection process. However, despite being aware of this condition, the petitioner submitted an application along with an affidavit on 14.06.2023, requesting the return of her original documents.

3.1. Furthermore, it is submitted that despite submitting a specific affidavit regarding the return of her original documents, the petitioner has approached this Court to have her documents re-verified at the Zila Parishad, Jodhpur, even though she had already taken them back herself. Therefore, the petitioner cannot be permitted to undergo document verification at the Zila Parishad, Jodhpur.

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file alongwith record appended therein.



5. First and foremost, reference may be had to an order dated 23.08.2023 passed by a co-ordinate Bench of this Court, earlier seized of the matter, which being apposite is reproduced hereinbelow:-

“Learned counsel for the respondents submits that he has filed reply to the writ petition.

Office is directed to tag the same along with the file.

Learned counsel for the respondents also submits that the recruitment process is in currency and it will not be concluded till the next date of hearing.

List on 01.09.2023.”

6. After passing of the aforesaid order, matter was heard on 10.10.2023 and following order was passed:-

“1. Learned counsel for the respondents prays for time to indicate the status of the recruitment pursuant to issuance of Fourth Waiting List by the respondents.

2. List the petition on 4.11.2023.

3. Learned counsel for the petitioner refers to the statement given by learned counsel for the respondents on 23.8.2023, that the recruitment process would not be concluded till the next date of hearing and on 20.9.2023 and 6.10.2023 interim order was extended.

4. In view of the submissions made, learned counsel for the respondents would also indicate the date pertaining to the status of the recruitment after making submissions before the Court on 23.8.2023.

5. In case, the recruitment process has not been concluded, the same shall not be concluded till the next date.”

7. Thereafter, the interim directions issued by this Court were extended vide orders dated 23.11.2023 & 06.02.2024 and thus till date the same continues to operate as it was never vacated.

8. Adverting now to the merits and demerits of the rival stands taken by the parties, first and foremost pertinent it is to notice that neither the eligibility, nor the merit, nor the score obtained by the petitioner is disputed by the respondents. What seems to have turned the table against the petitioner is the fact that after the first list of selected candidates was released, subsequently there were three more lists issued from time to time pursuant to which



candidates were appointed. Petitioner thereafter was under the *bona fide* belief that after the main select list, since three more subsequent supplementary select lists have already been issued, that was the end of the selection process.

9. Be that as it may, being aspirant to compete in the other selection processes, petitioner needed her original documents, which had already been verified in the document verification process earlier carried out for the first time pursuant to the declaration of the result on 17.10.2022 (Annexure-1).

10. The petitioner needed those original documents to apply pursuant to the other advertisements and, therefore, to the extent that the documents were being retained inordinately by the respondents, she approached the respondents rightfully as advised to her that the same would be returned subject to her giving an affidavit on dotted lines, which as it appears were already pre-typed in Hindi. Only the relevant blanks were filled by her. Be that as it may, the English translation of the same reads as under:-

“Affidavit

I, Ratha D/o Shri Karnaram, aged 29 years, by aste Mali, r/o Tak Krishifarm, Bera Magrala Village Binjwadiya, Tehsil Tinwar, Jodhpur Rajasthan do hereby take oath and state as under:-

1. *That I have applied for the post of Junior Clerk Direct Recruitment 2023 for district Jodhpur. My Application I.D. is 04010269962.*
2. *On 18.10.2022 I had got my documents verified from Zila Parishad, Jodhpur. I want to retrieve my original documents listed below on this day i.e. 14.06.2023.*
3. *Candidate's name - Radha D/o Karnaram, Application I.D 04010269962 category.....*



4. *The number of documents submitted 10 (in words). Those documents have already been referred to in the application form.*
5. *The said documents were submitted by me and I am the one receiving them.*
6. *In the future, I will not raise any claim for the Junior Clerk Recruitment 2013 for Jodhpur district.*
7. *I am submitting this application completely of my own will and without any pressure.*

Deponent

Verification

I, above named deponent hereby verify that the contents of my above affidavit is true and correct to my personal knowledge, nothing has been concealed therein and no part of it is false. So help me god.

Deponent''

11. The aforesaid affidavit is now being held against her that since she had deposed that she will not claim any benefit from the recruitment process, she cannot be offered the post despite being meritorious.

12. I am unable to persuade myself with the stand taken by the respondents. The same is being noted only to be rejected. Reasons are not far to seek. Petitioner had though stated in para 6 of her affidavit that she would not raise any claim in future arising out of return of documents, but she did depose that she will not be entitled to be appointed even if subsequently found meritorious. Her statement is being misread totally out of context by the respondents. It is the respondents, who have themselves created a situation, even if unwittingly, where the petitioner was compelled to seek return of her documents due to delay in the process of selection and that too only after the documents had been verified.



13. In case subsequently the petitioner was held meritorious for selection as per the fourth list, wherein, concededly candidates having lesser marks were also included, it was incumbent on the respondents to inform her that since she is on the select list she should submit the documents to be retained by the department in the service record. The entire purpose of retaining the documents is to keep copy of the same in the service record of the selected candidates. The other purpose of course is the verification of the same to ascertain the genuineness thereof.

14. As regards the verification, the same had since already been carried out, therefore, I see no reason why the benefit of the same be now given to the petitioner.

15. At the same time, it transpires that as per the additional affidavit dated 17.11.2023 filed on behalf of the respondents, there were only 12 posts of LDC in the OBC category in Zila Parishad, Jodhpur and all of them have already been filled up. Thus, the respondents opposed grant of any relief to the petitioner at this stage on the ground of delay and latches due to non-availability of vacant post.

16. Such a stand once again cannot be accepted and delay & latches are more attributable to the respondents and the same cannot be countenanced to give them any advantage of their own wrong. In order to meet the ends of justice and to maintain balance of equity, instead of quashing the entire selection process, which despite the interim directions issued by the Court, was carried forward by the respondents at their own peril, suffice it would be to issue a direction that the petitioner be given benefit of her performance and offered appointment in accordance with her



merit. In case no post is currently vacant and available, a supernumerary post shall be created according to seniority of the petitioner in accordance with marks obtained by her and the said post shall be reduced from the first future vacancies, which may arise. As regards the financial benefits, the petitioner shall not be entitled to the same on the principle of 'no work no pay' but she will otherwise be entitled to notional benefits.

17. The writ petition is allowed in above terms.

18. Pending applications, if any, stand disposed of.

(ARUN MONGA),J

133-AK Chouhan/-

Whether fit for reporting : Yes / No