



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

S.B. Civil Writ No. 14505/2018

1. Bhushan Kumar Pandya S/o Shri Narvada Shankar Pandya, Aged About 32 Years, Resident Of Village Maal, Tehsil Sabla, District Dungarpur, Rajasthan.
2. Bahadur Singh Rathore S/o Shri Bhagwal Singh Rathore, Aged About 25 Years, Resident Of Village And Post Bheemisor, Tehsil Ghadhi, District Banswar, Rajasthan.
3. Jyotasna Dave D/o Shri Prakash Chandra Dave, Aged About 34 Years, Resident Of Village And Post Obari, Tehsil Sangwada, District Dungarpur, Rajasthan.
4. Rakhi Pandya D/o Shri Dev Krishan Pandya, Aged About 29 Years, Resident Of Ganeshpur, Tehsil Aashpur, District Dungarpur, Rajasthan.
5. Bhawana Kunwar Panwar D/o Shri Bhopal Singh Panwar, Aged About 29 Years, Resident Of Mandav, Tehsil Sangwada, District Dungarpur, Rajasthan.
6. Himani Pandya D/o Shri Vidhya Shankar Pandya, Aged About 26 Years, Resident Of Biloda, Tehsil Sangwada, District Banswara, Rajasthan.
7. Milan Joshi S/o Shri Dineshchandra Joshi, Aged About 32 Years, Resident Of Post Khodan, Tehsil Ghadhi, District Banswara, Rajasthan.
8. Himanshu Joshi S/o Shri Natwar Lal Joshi, Aged About 32 Years, Resident Of Post Khodan, Tehsil Ghadhi, District Banswara, Rajasthan.
9. Kailash Patidar S/o Shri Jagdish Patidar, Aged About 35 Years, Resident Of Village And Post Parsoliya, Tehsil Ghadhi, District Banswara, Rajasthan.
10. Sonal Jani D/o Shri Kishore Jani, Aged About 25 Years, Resident Of Jani Mohalla, Village And Post Sablda, Tehsil Sabla, District Banswara, Rajasthan.
11. Gunjan Pathak D/o Shri Mahesh Pathak, Aged About 32 Years, Resident Of Plot No. 18, Sharda Colony, Link Road District Banswara, Rajasthan.
12. Surbhi Jani D/o Shri Kishore Jani, Aged About 23 Years, Resident Of Jani Mohalla, Village And Post Sablda, Tehsil Sabla, District Banswara, Rajasthan.





13. Jagrati Mehta D/o Shri Purnesh Mehta, Aged About 33 Years, Resident Of 3/42, Khandu Colony, District Banswara, Rajasthan.
14. Jitendra Thakor S/o Shri Hari Shankar Thakor, Aged About 40 Years, Resident Of Naya Gaon, Tehsil And District Banswara, Rajasthan.
15. Dipesh Rawal S/o Shri Prakash Chandra Rawal, Aged About 30 Years, Resident Of Nogama, Tehsil Bagidora, District Banswara, Rajasthan.
16. Himani Vyas D/o Shri Tribuwan Vyas, Aged About 29 Years, Resident Of Banswara, District Banswara, Rajasthan.
17. Lalit Kumar Gamor S/o Shri Naresh Gamor, Aged About 27 Years, Resident Of Village And Post Paloda, Tehsil Ghadhi, District Banswara, Rajasthan.
18. Sanjay Patidar S/o Shri Vijay Patidar, Aged About 24 Years, Resident Of Biloda, Tehsil Ghadhi, District Banswara, Rajasthan.
19. Samita Sukhala D/o Shri Jay Prakash Sukhala, Aged About 37 Years, Resident Of House No. 28, Bhagakot, Kalyan Colon Y, Tehsil Banswara, District Banswara, Rajasthan.
20. Antim Bala Shrimali S/o Shri Prushotam Shrimali, Aged About 26 Years, Resident Of Sangwada District Banswara, Rajasthan.
21. Samita Joshi D/o Shri Rajendra Prakash Joshi, Aged About 36 Years, Resident Of Kalba, Tehsil Bichhiwada, District Dungarpur, Rajasthan.
22. Dinesh Suthar S/o Shri Pannalal Suthar, Aged About 39 Years, Resident Of Village And Post Godana, Tehsil Jhadol Phalasiya, District Udaipur, Rajasthan.
23. Bhumika Rawal D/o Shri Vishnu Prasad Rawal, Aged About 32 Years, Resident Of Daduka Tehsil Ghadhi, District Banswara, Rajasthan.
24. Kalpesh Upadhyay S/o Shri Keshav Lal Upadhyay, Aged About 32 Years, Resident Of Aajna, Tehsil Ghadhi, District Banswara, Rajasthan.
25. Jayesh Pandya S/o Shri Sureshchandra Pandya, Aged About 30 Years, Resident Of Tamatiya Tehsil Sangwara, District Dungarpur, Rajasthan.





26. Bhaskar Bhatt S/o Shri Prakash Chandra Bhatt, Aged About 28 Years, Resident Of Village And Post Nandord, Tehsil Sangwara, District Banswara, Rajasthan.
27. Ashish Pandya S/o Shri Devendra Pandya, Aged About 33 Years, Resident Of Tamatiya, Tehsil Sangwara, District Dungarpur, Rajasthan.
28. Vidisha Shrimali D/o Shri Giresh Kumar Shrimali, Aged About 35 Years, Resident Of Divdabra, Tehsil Sangwara, District Dungarpur, Rajasthan.
29. Avinash Patidar S/o Shri Hirji Patidar, Aged About 30 Years, Resident Of Sangwara, District Dungarpur, Rajasthan.
30. Kavita Joshi D/o Shri Praveen Chandra Joshi, Aged About 32 Years, Resident Of Sangwara, District Dungarpur, Rajasthan.
31. Naresh Patidar S/o Shri Kacharu Patidar, Aged About 28 Years, Resident Of Divda Chota, Tehsil Sangwara, District Dungarpur, Rajasthan.
32. Priyanka Jain D/o Shri Dilip Jain, Aged About 32 Years, Resident Of Sangwara, District Dungarpur, Rajasthan.
33. Priti Vyas D/o Shri Dev Shankar Vyas, Aged About 29 Years, Resident Of Sangwara, District Dungarpur, Rajasthan.
34. Mohini Pandya D/o Shri Bharat Lal Pandya, Aged About 32 Years, Resident Of Gamda, Bramaniya, Tehsil Sangwara, District Dungarpur, Rajasthan.
35. Chanchala Soni D/o Shri Ishwar Lal Soni, Aged About 31 Years, Resident Of 3/a/44, Mahi Sarowar Nagar, Housing Baord, District Banswara Rajasthan.
36. Dharmesh Kumar Joshi S/o Shri Durga Shankar Joshi, Aged About 31 Years, Resident Of Vadkher, Tehsil Sangwara, District Dungarpur, Rajasthan.
37. Poonam Pandya D/o Shri Rajnikant Pandya, Aged About 24 Years, Resident Of Village And Post Tamatiya, Tehsil Sangwara, District Dungarpur, Rajasthan.
38. Roshan Joshi S/o Shri Jagdish Joshi, Aged About 28 Years, Resident Of Sangwara, District Dungarpur, Rajasthan.
39. Kavita Lauat D/o Shri Prem Shankar Lauat, Aged About 26 Years, Resident Of Barbodniya Tehsil Sangwara,





District Dungarpur, Rajasthan.

40. Vinod Patidar S/o Shri Keshavlal Patidar, Aged About 38 Years, Resident Of Village And Post Paniyat, Tehsil Sangwara, District Dungarpur, Rajasthan.

----Petitioners

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Secretary, Rural Development And Panchayati Raj Department, Government Of Rajasthan, Secretariat, Jaipur.
3. Director, Elementary Education, Government Of Rajasthan, Bikaner.
4. Zila Parishad Banswara, Through The Chief Executive Officer.
5. Zila Parishad Dungarpur, Through The Chief Executive Officer.
6. Zila Parishad Partapgarh, Through The Chief Executive Officer.
7. Zila Parishad Udaipur, Through The Chief Executive Officer.
8. Zila Parishad Pali, Through The Chief Executive Officer.
9. Zila Parishad, Sirohi, Through The Chief Executive Officer
10. Zila Parishad Chittorgarh, Through The Chief Executive Officer.
11. Zila Parishad Rajsamand, Through The Chief Executive Officer.

----Respondents

For Petitioner(s) : Mr. Ramdev Potalia.
 For Respondent(s) : Mr. Dinesh Ojha & Ms. Deepika Purohit for Mr. P.R. Singh, AAG.

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

25/10/2018



In the present writ petition though the petitioners had raised several issues and had sought reliefs (a) to (j), during course of submissions, learned counsel for the petitioners confined the reliefs to (c), (d) & (f), which reads as under :-

- “(c)- by an appropriate writ, order or direction, the respondents may kindly be directed to prepare and issue waiting list for the purposes of filling up of the vacancies remained vacant after completion of process of selection and appointment from those candidates who did not join or did not take part in selection and appointment process.
- (d)- by an appropriate writ, order or direction, the petitioners may kindly be included in the selection process of recruitment under heading “Rajasthan Primary and Upper Primary School Teacher Direct Recruitment-2018 and considering their marks to touch the cut off marks as fixed by the respondents in this regard. And accordingly the petitioners may kindly be given appointment as Teacher Gr.III (Level-II) in subject English for TSP Area with all consequential benefits.
- (f)- by an appropriate writ, order or direction, the respondents may kindly be directed to follow its own Notification (Annex.10) dated 04.07.2016 strictly in accordance to its aim and object.”

It is, inter-alia, submitted by learned counsel for the petitioners that as per Rule 277A of the Rajasthan Panchayati Raj Rules, 1996 (‘the Rules’) which deals with the procedure and method of direct recruitment for the post of Primary and Upper Primary School Teacher, it is incumbent on the respondents to prepare category-wise select list of the candidates declared successful on the basis of criteria of selection laid down by the State Government and further prepare a list to the extent of 50% of the finally intimated vacancies and keep those candidates on the reserve list.

It is contended that the respondents had advertised 1492 posts for Teacher (Level-II) English for TSP area, however, the



select list, which has been issued by the respondents, merely indicates 1379 candidates. A further submission has been made that in terms of Clause (vii) & (viii) of Rule 277A of the Rules, the list of selected candidates has been sent to the respective Zila Parishads and thereafter, the scrutiny of the documents takes place resulting in several of the candidates, getting excluded on account of their ineligibility. It is also contended that several of the candidates, whose name appear in the select list, have also been selected for higher posts and therefore, those candidates would also not be joining pursuant to the select list as sent to the Zila Parishad for appointment, therefore, those lower in merit stand a good chance to get selected if the reserve list is prepared and operated. It is submitted that the respondents have not prepared / published the reserve list, which in terms of proviso to Clause (vi) of Rule 277A of the Rules is incumbent on the respondents.

Apprehension has been expressed that as the list has not been published, the posts remaining vacant after issuance of select list and granting appointment to the eligible candidates would not be offered to the present incumbents, whose names may be there in the reserve list and the said selection would go waste and therefore, the respondents be directed to publish reserve list and to grant appointment to the incumbents, whose names appear in the reserve list on the vacant posts.

Further submissions have been made that the respondents have not applied the notification dated 04.07.2016 (Annex.10) in accordance with its aim and object, whereby the reservation as



prescribed for the Scheduled Tribe candidates, has not been granted by the respondents.

Learned counsel appearing for the respondents submitted that in so far as the issue relating to the application of notification dated 04.07.2016 (Annex.10) is concerned, the issue already stands covered by the judgment of this Court in *Deepika Kumari v. State of Rajasthan & Ors. : SBCWP No.15340/2018*, decided on 12.10.2018 and therefore, in so far as the plea raised in this regard is concerned, the same has no substance.

Further submissions have been made that a bare perusal of the provisions of Rule 277A of the Rules would reveal that the same provide for the authorized agency to keep names of suitable candidates on the reserve list and there is no prescription to publish the same and further the provision itself is directory and therefore, the petitioners cannot seek enforcement of the said provision. Further submissions have been made that irrespective of the interpretation of the provision, in any case, the reserve list is readily available with the authorized agency and the same can always be utilized as and when the same is required and therefore, the submissions made by the petitioners in this regard has no substance and the writ petition deserves to be dismissed.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

The provisions of Clause (vi), (vii) & (viii) of Rule 277A of the Rules read as under :-

“(vi) the Authorized Agency shall prepare category wise select list of the candidates declared successful on the basis of criteria of selection laid down by the State Government from time to time.



Provided that the Authorized Agency may, to the extent of fifty percent of the finally intimated vacancies, keep names of suitable candidates on the reserve list. The Authorized Agency may on requisition recommend the name of such candidate in the order of merit to the Zila Parishad concerned within six months from the date on which original list was forwarded by the Authorized Agency;

(vii) the Authorized Agency shall prepare district wise list of the selected candidates, out of list prepared under clause (vi), according to the preference given by them in the application form; and

(viii) the Authorized Agency shall send the list of selected candidates prepared under clause (vii) to the Zila Parishad concerned, with their application forms, for appointment."

Further stipulations in the advertisement, which are relevant

for the present purpose i.e. Clauses 13.5 & 13.6, read as under :-

"5. अभ्यर्थियों को मैरिट अनुसार उनके द्वारा दी गई जिलों की प्राथमिकता क्रम के आधार पर जिला आवंटन कर जिलेवार सूची नियुक्ति हेतु संबंधित जिला परिषदों को भेजी जायेगी। जिला परिषदों द्वारा अभ्यर्थियों की पात्रता एवं दस्तावेजों की जांच करने के पश्चात मैरिट के आधार पर नियमानुसार नियुक्ति की कार्यवाही की जायेगी।

6. अभ्यर्थियों द्वारा ऑन लाईन आवेदन में भरी गई रीट/आरटेट एवं स्नातक के प्राप्तांकों के आधार पर बिना दस्तावेजों का सत्यापन किये राज्य स्तरीय मेरीट तैयार की जायेगी अर्थात जिला परिषद स्तर पर दस्तावेज सत्यापन के समय उक्त प्राप्तांकों में अन्तर पाये जाने पर उसका चयन निरस्त समझा जायेगा एवं दस्तावेज सत्यापन में पात्र पाये जाने पर ही काउंसलिंग व नियुक्ति का अधिकारी होगा।"

A perusal of proviso to Clause (vi) of Rule 277A of the Rules would reveal that the Authorized Agency may to the extent of 50% of the finally intimated vacancies, keep names of suitable candidates on the reserve list. Further the Authorized Agency may on requisition recommend the name of such candidate in the order of merit to the Zila Parishad concerned within six months from the date on which original list was forwarded by the Authorized Agency.

The said clause read with the stipulation made in the advertisement clearly indicates that it is only at the level of Zila



Parishad where the documents, eligibility etc. of the candidates selected and allotted by the Authorized Agency are examined and if after grant of appointments to the eligible selected candidates vacancies remain at the Zila Parishad level, the Zila Parishad has to seek further names from the reserve list from the Authorized Agency and on being asked for such names, the Authorized Agency has to send the names to the concerned Zila Parishad and the said exercise has to be completed within six months from the date on which the original list was forwarded by the Authorized Agency.

As already noticed, when 1492 posts were advertised and the select list only contain names of 1379 candidates as filed by the petitioners, obviously the vacancies do exist and therefore, the candidates like petitioners, who have not been selected, have a legitimate expectation i.e. if their names appear in the reserve list, they may get chance of appointment.

The submission made by learned counsel for the respondents that the provision being directory and providing only for the Authorized Agency to 'keep' the names of suitable candidates on the reserve list, does not require the respondents to publish the said list cannot be countenanced. Once the provision provides for keeping the suitable candidates on the reserve list, the same must be published by the respondents so as to keep the concerned candidates aware of their status in the reserve list. Further once the provisions are there for the concerned Zila Parishad to seek names of the suitable candidates from the Authorized Agency within a period of six months for the vacant posts, normally the said aspect also must be followed so as to make the recruitment



complete and in normal circumstances they must not let the list to expire.

In view of the above fact situation, wherein the scrutiny of the eligibility etc. of the candidates is to be made at the level of concerned Zila Parishads, there are already vacant positions available, inasmuch as, the Authorized Agency has not recommended full names against the vacancies advertised, it would be in fitness of things, the reserve list which is required to be prepared by the Authorized Agency in terms of proviso to Clause (vi) of Rule 277A of the Rules must be published and operated in terms of the Rules and requirements.

Consequently, the writ petition filed by the petitioners is partly allowed. The respondent-Authorized Agency i.e. respondent No.3 is directed to upload the reserve list in terms of proviso to Clause (vi) of Rule 277A of the Rules on its website within a period of four weeks from today. Further the concerned Zila Parishads are also directed to act in accordance with the provisions of the said proviso in respect of the vacancies and the reserve list.

(ARUN BHANSALI),J

Rm//33

सत्यमेव जयते

