

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN



WRIT PETITION NO: 7147 OF 2022

Between:

Dr. C. Sandhya, D/o Dr. Ch. Nagabhushan Rao, Aged 37 years, Working on contract basis as General Duty Medical Officer (Covid Duty), Save UPHC Scavangers Colony, Leelamahal Centre, Tirupati, Chittoor District

...Petitioner

AND

1. State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Health, Medical & Family Welfare Department, Secretariat, Velagapudi, Guntur District.
2. Andhra Pradesh Vidyavidhan Parishad, Rep. by its Commissioner, Health, Medical & Family Welfare Department, Gollapudi, Vijayawada-521225.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to call for the records pertaining to impugned proceedings in Rc.No.APVVP-12028/1/2022-Medical, dated 20.03.2022 issued by the 2nd respondent and set it aside as bad, illegal, unfair, irrational, violative of principles of natural justice, for extraneous reasons, trivial and unconstitutional and consequently direct the 2nd respondent to appoint the petitioner as Dental Assistant Surgeon in pursuance of impugned Notification No.02/2021 dated 21.11.2021 on par with the co-recruitees by issuance of Writ of Mandamus and issue any Writ, Order or Direction in the interest of justice.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to consider and appoint the candidature of the petitioner as Dental Assistant Surgeon without insisting for trivial issue, pending disposal of WP 7147 of 2022, on the file of the High Court.

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings in pursuance of Notification No.02/2021 dated 21.11.2021 for the post of Dental Assistant Surgeon, pending disposal of WP 7147 of 2022, on the file of the High Court.

IA NO: 3 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the proceedings in Rc.No.APVVP-12028 / 1/2022-Medical, dated 20.03.2022 issued by the 2nd respondent, pending disposal of WP 7147 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri J Sudheer, Advocate for the Petitioner and GP for Health, Medical & Family Welfare for the Respondent No.1 and Sri B. Jagadish Kumar, Standing Counsel for Respondent No.2, the Court made the following;

ORDER:

"Heard the counsel for the petitioner and the standing counsel for the respondent No.2.

The counsel for the petitioner submitted that the petitioner applied for the post of Dental Assistant Surgeon pursuant to the notification No.02/2021 dated 21.11.2021 enclosing the necessary documents and complied with all the requirements.

Whereas, during the course of selection process initially she was shown in the provisional merit list of eligible candidates for the Dental Assistant Surgeon, dated 03.01.2022 at Serial No. 17 with a necessary observation that all the documents are enclosed. Even after next stage of selections in the revised provisional merit list of the eligible candidates for the Dental Assistant Surgeon dated 22.01.2022 also the petitioner's name was shown at Serial No.42 with the endorsement 'yes' in the column at 25 that she has enclosed all the necessary documents.

Thereafter, in the roster wise selection list of candidates for the Dental Assistant Surgeons, dated 02.03.2022, the petitioner's name was also shown at Serial No.39 with the endorsement that all the documents are enclosed as 'yes'.

But suddenly, at the intervening night of 20.03.2022-21.03.2022 at 02.35am at the early hours, the communication was sent by the respondent No.2 with a letter enclosing dated 20.03.2022 declaring the candidature of the petitioner as ineligible on the ground that she has not enclosed the A.P Dental Council Registration Certificate which is mandatory as per the notification No.2/2021 dated 21.11.2021.

Whereas, the appointments to the vacancies have been made for the posts of Dental Assistant Surgeons dated 21.03.2022 showing 45 candidates as selected without there being the selection of the petitioner herein. But the certificate issued by the A.P State Dental Council for the petitioner was also enclosed at page 39 of this writ petition.

On the other hand, the learned standing counsel submits that though all the documents were enclosed and the particulars of the certificate are furnished by the petitioner which is at Page 38 of the writ petition but the certificate as contemplated at page 39 of the writ petition is not furnished by the petitioner. Hence, her candidature is rejected at the Eleventh hour.

Be that as it may, since the petitioner establishes a prima facie case for selection pursuant to the above said notification there shall be an interim direction to keep one post vacant pending further orders.

It is open for the petitioner to approach the authorities with the necessary certificates including the APSDC certificate as required by the respondents and in the event of furnishing the same, the respondent No.2 can consider the same for selection if the petitioner is otherwise entitled as per law.

The petitioner shall furnish the necessary certificates as required by the respondents within three days from the date of receipt of this order and the respondent No.2 shall consider the same strictly in accordance with law basing upon the merit of the candidate for selection within three weeks from thereafter.

List on 20.04.2022.

In the meanwhile, standing counsel for the respondents shall file counter."

//TRUE COPY//

Sd/- M. SRINIVAS
ASSISATNT REGISTRAR

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SECTION OFFICER

To,

1. The Principal Secretary to Government, Health, Medical & Family Welfare Department, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur District.
2. The Commissioner, Health, Medical & Family Welfare Department, Andhra Pradesh Vidyavidhan Parishad, Gollapudi, Vijayawada-521225. (1 & 2 by RPAD)
3. One CC to Sri. J Sudheer, Advocate [OPUC]
4. One CC to Sri B. Jagadish Kumar, Standing Counsel [OPUC]
5. Two CCs to GP for Health, Medical & Family Welfare, High Court of Andhra Pradesh. [OUT]
6. One spare copy.

MSB

HIGH COURT

BKM,J

DATED:23/03/2022

ORDER

LIST ON 20.04.2022

WP.No.7147 of 2022

INTERIM DIRECTION

