

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Constitution Petition No. D-1273 of 2023

(Syed Ayaz Ali Shah Vs. Province of Sindh & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon, J;
Muhammad Abdur Rahman, J;

Date of hearing and order: 16-05-2024.

Mr. Haji Shamsuddin Rajper, advocate for the petitioner.
Mr. Ghulam Mustafa G.Abro, Assistant A.G, Sindh.

ORDER.

Adnan-ul-Karim Memon J:- The petitioner Syed Ayaz Ali Shah seeks direction to the respondent-Education & Literacy Department, Government of Sindh to issue him the appointment order for the post of Junior Elementary School Teacher (JEST BPS-14) against the differently-abled Quota as he has already been declared a successful candidate by obtaining 38 marks in the test conducted by Sukkur Institute of Business Administration Testing Service (SIBA).

2. Learned counsel for petitioner referred Annexure 'C' on page 15 of the petition whereby in a letter dated 20.07.2023 the District Education Officer (ES&HS) Chairman DRC District Naushehro Feroze mentioned regarding the operation of stay order in C.P No. D-297/2022 dated 26.01.2023, whereby the appointment of candidates having marks below 40 has been stayed. Per learned counsel, such a stay order does not pertain to the Education Department; this will not come in the way of the petitioner as the Supreme Court has already directed the Chief Secretary Sindh to fill the Quota based on differently-abled person under the policy decision. Be that as it may, it appears from the record that petitioner

applied for the subject post and secured 37 marks and was declared successful candidate vide result dated 08-12-2021.

3. Learned AAG has submitted that District Selection Committee Naushahro Feroze recommended five differently-abled candidates obtaining from 54 to 42 marks, hence there was no any candidate whose marks were/are less than the petitioner, were/are appointed in first Phase, however in second Phase due to non-availability of vacancy based on differently-abled quota, no person had been appointed as there were only 10 seat of JEST (BPS-14) for general merit; however in third Phase there were 26 seats for JESTs and District Selection Committee Scrutinized the documents of the petitioner and in the intervening period this Court vide order 26-01-2023 in Constitution Petition No.D-297 of 2022 restraining the Government of Sindh to continue the appointment upto 33% marks only and his case can be considered as and when the operation of stay is lifted by this Court. If this is the position of the case, the case of the petitioner is required to be duly considered by the competent authority of respondents in terms of the judgment of the Supreme Court as he has already been declared a successful candidate for the subject post.

4. This petition is adjourned to 06-06-2024 with direction to learned counsel for the petitioner to assist the Court about the stay Order passed in C.P No.D-297 of 2022.

Judge

Judge

Nasim/P.A