

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.774/2021

Dr. Sujit Debnath, S/O. Sri Samarendra Debnath, R/O-Vill.-Gouripur, P.O.-
Fulbari, P.S.-Churaibari, District-North Tripura, Pin-799262, Aged about-34
years.

..... Petitioner(s).

V E R S U S

1. The Union of India, Represented by its Secretary, Ministry of Education,
Department of Higher Education, 127-C, Shastri Bhavan, New Delhi-
110001.

2. Indian Council of Philosophical Research, Represented by its Member
Secretary, Darshan Bhavan, 36, Tughlakabad Institutional Area, Mehrouli,
Badarpur Road, New Delhi-110062.

3. The Director, Indian Council of Philosophical Research, Darshan Bhavan,
36, Tughlakabad, Institutional Area, Mehrouli, Badarpur Road, New Delhi-
110062.

4. The Interview Board Members, Represented by its Chairman, To be
served through the Respondent No.3 i.e, the Director, Indian Council of
Philosophical Research, Darshan Bhavan, 36, Tughlakabad Institutional
Area, Mehrouli, Badarpur Road, New Delhi-110062.

.....Respondent(s).

For Petitioner(s) : Mr. Arijit Bhaumik, Advocate,
Mr. S. Dey, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Dy. S.G.I.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment: **11th May, 2023.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

The order dated 10.05.2023 is extracted hereunder as it
contains not only the main prayer of the writ petitioner but also the latest

position as regards fresh advertisement to fill up the post of Director under the Indian Council of Philosophical Research (ICPR, for short), Department of Higher Education, Government of India:

"The writ petition was preferred with the following prayer:

"The Petitioner approaches this Hon'ble High Court by filing a Writ Petition under Article 226 of the Constitution of India seeking a Writ of Certiorari for setting aside the letter vide Notification No.F.14-16/2019/AF/ICPR dated 8th July, 2021 whereby the Petitioner was informed that "no candidates found suitable for the post of DIRECTOR (P&R)", the post may be re-advertised. The Petitioner also seeks a Writ of Mandamus directing the Respondents to appoint the Petitioner in the post of Director (P & R), Indian Council of Philosophical Research under the Ministry of Education, Department of Higher Education, Government of India. The Petitioner further raises grievance regarding violation of right of the Petitioner under Article 14 and 16 and the laws framed there under by this Hon'ble Court and the Hon'ble Apex Court. Hence, this Writ Petition."

Counter affidavit had been filed earlier. But on the previous date, i.e. 26.04.2023 Mr. Bidyut Majumder, learned Deputy S.G.I. appearing for the respondent-Union of India, was asked to seek instructions whether the post of the Director (P&R), ICPR has been re-advertised and filled up during pendency of the writ petition or not. Learned Dy. S.G.I. states on instructions today that the post has been re-advertised in June, 2022 and the petitioner has also applied for.

In the face of such a factual position, it appears that the grievances of the petitioner do not remain as one of his prayers was to re-advertise where he can again participate. However, on the request of learned counsel for the petitioner, the matter is adjourned for tomorrow so that he can seek instructions from the client.

Accordingly, list the matter tomorrow (11.05.2023)."

2. Mr. Arijit Bhaumik, learned counsel for the petitioner, on instructions, submits today that though an advertisement has been issued bearing No.01/2022 but thereunder applications have been invited for the post of Director by direct recruitment/failing which by deputation and not of Director (P&R), the post which was earlier advertised in 2020 but the advertisement was cancelled by the letter dated 08.07.2021. Learned counsel for the petitioner, however, also submits on instructions that the petitioner is eligible and has applied for the post of Director notified vide Advertisement No.01/2022 to be filled up through direct recruitment. However, he submits that the respondents should have also re-advertised the post of Director (P&R), ICPR which advertisement was withdrawn without any valid reason.

3. Mr. Bidyut Majumder, learned Deputy S.G.I., has submitted on the basis of instructions contained in letter dated 01.05.2023 that the post of Director (Planning & Research) was re-advertised in Employment News vide Advt. No.01/2022 dated 4th to 10th June, 2022. The post is still vacant. He also reiterates the statement made yesterday that the petitioner has also applied for the post of Director under the instant Advertisement No.01/2022. Learned Dy. S.G.I. submits that petitioner cannot insist for re-advertisement of a particular post under the respondents as it is the prerogative of the employer. However, if the petitioner has already applied

for the re-advertised post of Director, no subsisting cause of action remains for adjudication.

4. I have considered the submissions of learned counsel for the parties in the limited canvas of facts noted above. Since the post of Director under ICPR has been re-advertised to be filled up through direct recruitment and the petitioner has duly applied for that post, this Court is of the view that the underlying grievance of the petitioner has been addressed. In such circumstances, since filling up of a particular post or the decision not to fill up a post by withdrawing the advertisement is basically within the domain of the employer, this Court is not inclined to enter into the contentions raised by the petitioner with regard to withdrawal of the previous advertisement regarding filling up of the post of Director (P&R) vide letter dated 08.07.2021.

5. Accordingly, the instant writ petition is disposed of.
Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

Pulak