

Court No. - 20

Case :- WRIT - A No. - 8896 of 2023

Petitioner :- Gunjan Srivastava

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Ayush, Anubhag 2, U.P. Lko. And Another

Counsel for Petitioner :- Onkar Singh

Counsel for Respondent :- C.S.C., Raj Kumar Upadhyaya
(R.K.Upadhyaya)

Hon'ble Manish Mathur,J.

1. Heard learned counsel for the petitioner and learned State Counsel for opposite party No.1 and Shri R.S. Tiwari, learned counsel for opposite party No.2.

2. Petition has been filed seeking a direction to opposite parties to fill up all 596 vacancies of Homeopathy Medical Officer-S-11/01, advertised as advertisement dated 18th May, 2018.

3. At the very outset, learned counsel for opposite party No.2 has raised a preliminary objection regarding maintainability of the petition in view of the fact that admittedly petitioner was not selected in pursuance of his application with regard to aforesaid advertisement. It is submitted that even otherwise, aforesaid recruitment has already come to an end with recruitment having been made. It has further been submitted that petitioner was neither selected nor was placed in any waiting list. Since, no waiting list at all was prepared, therefore, he does not have a right to maintain this petition.

4. Learned counsel for petitioner has drawn attention to the order dated 5th January, 2022 to submit that it has been admitted by opposite parties that out of aforesaid posts advertised, at least 25 posts were not filled up as on the date of issue of order. It has been submitted that the said document makes it evident that at least 25 vacancies are still existing in pursuance of advertisement issued on 18th May, 2018 and, therefore, the petitioner would have a right to be considered for appointment in terms of Articles 14 and 16 of the Constitution of India.

5. Learned counsel for petitioner has also submitted that once posts are advertised, although it is the discretion of State Government not to fill up all posts, but such a decision has to be taken keeping in view the relevant facts and not in an arbitrary manner as has been done in the present case, when opposite parties have not indicated whether 25 vacancies have been left

vacant or have been carried forward.

6. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is quite evident even from the prayer made in petition that petitioner is not seeking any benefit for himself. It has been submitted that petitioner was not selected in pursuance of advertisement dated 18th May, 2018. There is no challenge to the select list issued in pursuance of the said advertisement. It is also admitted that no waiting list was prepared with regard to said advertisement and petitioner was not indicated in any other waiting list with regard to the said vacancy.

7. In considered opinion of this Court, since petitioner has not sought any particular relief for himself and seeks a relief, which in fact is in nature of public interest litigation, the petitioner would not have locus to maintain this petition at all.

8. In view of aforesaid, petition is **dismissed** at the admission stage itself. Parties to bear their own cost.

Order Date :- 9.11.2023

Ashutosh Pandey