



Serial No.01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.66/2025

Date of CAV: 18.11.2025

Date of Pronouncement: 21.11.2025

Smti. Dashimti Kharkongor

..... Petitioner

Vs.

1. Meghalaya Public Service Commission represented by its Secretary,
Government of Meghalaya, Shillong.

2. The Secretary Meghalaya Public Service Commission.

3. The Director, Directorate of School Education and Literacy,
Department of Education, Government of Meghalaya.

4. Smti. Alvarinea Nongsiej

5. Shri Aidorlang Ryngksai

..... Respondents

Coram:

Hon'ble Mr. Justice Soumen Sen, Chief Justice

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr. P. Yobin, Adv with
Mr. A. Dkhar, Adv

For the Respondents : Mr. K. Paul, Sr.Adv with
Ms. B.F. Kharwanlang, Adv for R/1&2
Mr. A.H. Kharwanlang, Addl.Sr.GA
Mr. Philemon Nongbri, Adv for R/4
Mr. B. Deb, Adv for R/5

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT: (per the Hon'ble, the Chief Justice)

The appeal arises out of the order passed by the learned single judge in a writ petition filed by the appellant, challenging the selection



process adopted by the State respondents for the post of State Organizer (Scouts and Guides).

2. The main grievance of the appellant in the writ petition was that although the respondent Nos. 4 and 5 were not eligible for the said post and their applications were initially rejected, they were subsequently permitted to take part in the selection process and have since been selected as State Organizer (Scouts and Guides). Learned counsel also submitted that the writ petition was filed after it came to the knowledge of the writ petitioner through various RTI applications. The respondent Nos.4 and 5, especially the respondent No.4, lacked the required experience as mandated by the advertisement. It is further submitted that the acceptance by the State respondents in accepting the candidature of the respondent Nos.4 and 5 was done illegally, the entire selection process thus stands vitiated and directions be passed upon the respondents Nos.1 to 3 (hereinafter referred to as “State respondents”) to initiate a fresh selection process. A prayer was also made for an inquiry into the circumstances, resulting in the acceptance and appointment of the respondent Nos. 4 and 5 in the said post.

3. The writ petition was contested by the State respondents as well as the private respondents. The maintainability of the writ petition was



raised as a preliminary objection on the ground that the writ petitioner, only challenged the selection process and not the letter of appointment dated 20.11.2023 and they have already been appointed and they are in service. The writ petitioner does not have the eligibility criteria and a writ petition in the instance of ineligible and disqualified candidate is not maintainable in law.

4. The learned Addl.Sr.GA appearing for the respondent No.3 i.e. the Director, Directorate of School Education and Literacy has submitted that the writ petitioner admittedly is not a holder of Himalayan Wood Badge at the time when the advertisement was issued i.e. 14.11.2019 and also at the time of receiving the applications i.e. 23.12.2019. The writ petitioner did not obtain the eligibility criteria till the year 2023. In view of the fact that the writ petitioner is ineligible, she could not have taken part in the selection process, least of all, to challenge the same.

5. Learned counsel for the private respondents have supported the learned Addl.Sr.GA and adopted the said submission.

6. The State respondents in their affidavit have clearly stated that the writ petitioner could not challenge the recruitment process after having participated in the selection process for the said post and also her



candidature having been rejected, since she does not have the experience as required by the advertisement for the said post. The learned counsel for the State respondents has relied upon the decision of the Hon'ble Supreme Court in the case of *Madan Lal v. State of J&K & ors*¹ in paragraph 9 for the proposition that the party that fails in getting selected for the vacant post cannot challenge the selection process. The said paragraph 9 reads as follows:

“9. Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus, the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of *Om Prakash Shukla v. Akhilesh Kumar Shukla* [1986 Supp. SCC 285: 1986 SCC (L&S) 644: AIR 1986 SC 1043] it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a

¹ (1995) 3 SCC 486



petition challenging the said examination, the High Court should not have granted any relief to such petitioner.”

(emphasis supplied)

7. It is further submitted that the writ petitioner waited for almost two years and she has failed to offer any explanation for not approaching the writ court immediately thereafter, as it is known to her and the selection process was continuing and the representations of the private respondents were accepted by the authority concerned. It is thus submitted that the writ petitioner has waived her rights, if any, in challenging the selection process.

8. The learned counsel for the respondent No.5 in reiteration of what has been stated with regard to the locus of the writ petitioner to challenge the selection process has relied upon the following decisions:

“1. Manish Kumar Shahi v. State of Bihar²

2. Ramesh Chandra Shah & ors v. Anil Joshi and ors³ and

3. Madras Institute of Development Studies & anr v. Dr. K. Sivasubramanian & ors⁴

4. D. Sarojkumari v. R. Helen Thilakom⁵

The crux of the submission appears to be that a candidate having participated in the selection process cannot invoke the extraordinary jurisdiction under Article 226 of the Constitution only after he found that the selection procedure or the norms governing the selection

² (2010) 12 SCC 576

³ (2013) 11 SCC 309

⁴ (2016) 1 SCC 454

⁵ (2017) 9 SCC 478



process are faulty. In other words, a candidate having taken part in the selection process with full knowledge of the applicable norms governing the selection process waives his right to question the advertisement or the methodology adopted for making the selection.

9. The respondent Nos.1 and 2 in their affidavit-in-opposition have stated that after the applications of all the 29 applicants were rejected, the private respondents as well as the writ petitioner and other candidates have submitted their applications to the Commission annexing their respective certificates as per the requirement in the advertisement. Thereafter, only after careful perusal of the certificates, the private respondents were called for a personal interview and excelled in the said interview. The representation of the writ petitioner was rejected on the ground that the experience certificate submitted by her does not indicate any date as to when the said certificate was issued to her and the Himalayan Wood Badge certificate annexed by the writ petitioner in the representation before the Commission is found to be unsatisfactory. Hence, her representation was treated as rejected as not eligible.



10. The learned single judge on consideration of the materials on record and the submissions made on behalf of the respective parties, have accepted the submission of the learned Addl.Sr.GA as well as the learned senior counsel appearing for the private respondents dismissed the writ petition. The reason for dismissal of the writ petition is summarised in paragraph 7 of the impugned order, which is set out for convenience:

“7. On hearing the learned counsel for the parties and also on examination of the materials on records, notwithstanding the other submissions made with regard to the ineligibility, an examination of the pleaded case of the writ petitioner shows that by a notice dated 24-10-2020, the candidature of the writ petitioner was rejected due to not having the experience as required in the advertisement. Further, the writ petitioner, on the acceptance of the candidature of the private respondents on their representations, has also not assailed the same, though the acceptance of their representations was as far back as on 24-11-2020. The culmination of the recruitment process, it is seen has resulted in the appointment of the private respondents by an appointment order dated 20-12-2023, this too, has not been put to challenge by the writ petitioner. As such, without dwelling into the merits of the case, in the totality of the circumstances, the writ petitioner clearly not being eligible in the first instance, therefore, has no locus to challenge the selection process as it is not even a case of a candidate who has participated in the selection and has turned around and challenged the same. The writ petitioner, by her own actions in not assailing the impugned appointment order or the acceptance of the candidature by the respondents No. 1 & 2, has clearly waived and acquiesced any rights she might have, coupled with the fact that she was ineligible at that relevant point of time.”



11. The reasons which seem to have been weighed with the learned single judge were that the candidature of the writ petitioner was rejected on 24.10.2020 and subsequently, the candidature of the private respondents were accepted based on their representations but the writ petitioner contemporarily did not challenge the appointment of the private respondents upon acceptance of their representations. The writ petitioner was aware that the representations of the private respondents were accepted on 24.11.2020 and had ultimately culminated in the appointment order dated 20.12.2023. The writ petitioner neither challenged the acceptance of the representations nor the appointment order dated 20.12.2023.

12. In view of the fact that the writ petitioner herself was ineligible and not qualified under the extant recruitment rules could not have maintained a writ petition challenging the selection process of the private respondents Nos.4 and 5.

13. The acceptance of the experience certificate as required in the advertisement has been explained by the private respondent No.4 in her affidavit-in-opposition.

14. The question thus arises for consideration is whether the selection committee was justified in accepting the experience certificate



as required in the advertisement from the private respondents in terms of the notice dated 24.11.2020. The reason for acceptance of the required certificate by the appointing authority would appear from the affidavit-in-opposition filed on behalf of the private respondent No.4. In paragraph 7 of the said affidavit, it has been stated that pursuant to the advertisement dated 14.11.2019, the said respondent had applied for the post of State Organiser (Scouts and Guides). Initially, however, her name was rejected on 24.11.2020 due to non-submission of experience certificate as required in the advertisement. Subsequently, the said respondent submitted her representation along with the experience certificate dated 09.03.2021 issued by the then Secretary, Meghalaya Bharat Scouts and Guides, Shillong. Thereafter, the respondent No.1 issued a notice dated 23.09.2021 declaring the respondent Nos.4 and 5 as eligible candidates. The certificate dated 09.03.2021 would indicate that the said respondent No.4 had been serving as Assistant State Organiser (non-salaried) since the year 2016. The said certificate was annexed to the affidavit-in-opposition filed by the respondent No.4.

15. The respondent No.5 in his affidavit has clearly stated that he had gone through the written scrutiny and selection process conducted by the Meghalaya Public Service Commission (MPSC) and was



selected as one of the successful candidates. The said respondent also stated that he was selected only after clearing the personal interview conducted by the MPSC, and as such, he was recommended and also appointed as State Organizer (Scouts and Guides) in the office of the Directorate of School Education and Literacy and was deputed to Meghalaya Bharat Scouts and Guides. As such, he is a deserving candidate having the required qualification for the post of State Organizer (Scouts and Guides). The said respondent was selected and appointed since he was having the requisite qualifications as prescribed in the advertisement dated 14.11.2019 issued by the MPSC.

16. The State respondents also had clarified that the allegation of forgery of the experience certificate levelled against the said respondent No.4 by the former Secretary of the Meghalaya Scouts and Guides was found to be incorrect and the forensic examination of the certificate shows it to be genuine.

17. Till now, the said certificate has not been cancelled by any authority or declared to be forged in any proceeding. Hence, it can be safely concluded that the said respondents had the requisite certificates at the time of advertisement.



18. In view of the fact that the appellant/writ petitioner was admittedly ineligible and not qualified whereas, the private respondents have the requisite qualifications and produced valid certificates, we are not inclined to interfere with the order passed by the learned single judge.

19. In view of the aforesaid, the appeal fails and is hereby dismissed.

20. However, there shall be no order as to costs.

(W. Diengdoh)
Judge

(Soumen Sen)
Chief Justice

Meghalaya
21.11.2025
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