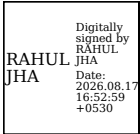




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HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 735 of 2026

- 1 - Ramu Ram Sahu S/o Shri Belan Ram Sahu Aged About 41 Years R/o Village- Mohtara, Post- Latuva, P.S.- Balodabazar, Distt. Balodabazar-Bhatapara (C.G.)**
- 2 - Manmohan Singh Sahu S/o Shri Kriparam Sahu Aged About 40 Years R/o Village- Sakari, Post- Amera, P.S.- Balodabazar, Distt.- Balodabazar-Bhathapara, (C.G.)**
- 3 - Prateek Kumar Sahu S/o Shri Ghasi Ram Sahu Aged About 25 Years R/o Village And Post- Purgaon, Via- Bilaigarh, P.S.- Balodabazar, Distt.- Balodabazar-Bhatapara (C.G.)**

... Appellants

versus

- 1 - State of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)**
- 2 - The Collector Balodabazar, District- Balodabazar-Bhathapara, (C.G.)**
- 3 - The Chief Municipal Officer Nagar Palika Parishad, Balodabazar, Distt.- Balodabazar-Bhatapara (C.G.)**
- 4 - The Secretary School Education Department, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)**
- 5 - The District Education Officer Balodabazar, Secretary, Urban Administration And Development Department, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)**

... Respondents

For Appellants : Mr. Goutam Khetrapal, Advocate

For State / Respondents : Mr. P.K. Bhaduri, Dy. AG

For Resp. No. 3 : Mr. Anand Shukla, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

Per, Bibhu Datta Guru, J.

17/08/2026

1. The present intra-Court appeal has been preferred questioning the order dated 15/05/2026 passed by the learned Single Judge in WPS No. 2708/2014, whereby the writ petition preferred by the appellants/petitioners seeking a direction for their appointment against the posts of Assistant Teacher (LB) came to be dismissed.
2. The grievance of the appellants, as canvassed before us, is essentially that they had participated in the recruitment process pursuant to the advertisement issued for appointment to the post of Assistant Teacher (LB) and in the said recruitment process their names were included in the select list. It is submitted that vacancies were available and, therefore, non-issuance of appointment orders in their favour was wholly unjustified. It is further contended that similarly situated candidates had subsequently been appointed and, therefore, the appellants could not have been denied similar treatment. According to the learned counsel, the impugned action on the part of the respondents' authorities is absolutely illegal and contrary to the well settled principal of law. Thus, this appeal.
3. Learned counsel for the respondents, on the other hand, supports the order passed by the learned Single Judge. It is submitted that the appellants never acquired any vested or indefeasible right to appointment merely by participating in the recruitment process or by being placed in the select list. The recruitment itself had not attained finality. The

category of Assistant Teacher (LB) was not recognised under the Rules namely Chhattisgarh Shikshak (Nagariya Nikay) Samvarg (Bharti Tatha Seva ki Sharte) Niyam, 2013 (for short ‘the Rules, 2013’). The Screening Committee, upon noticing the discrepancy, had recommended issuance of a fresh advertisement after subject-wise clarification. Thereafter, the State Government, vide memo dated 25.04.2014, and the Directorate of Urban Administration and Development, vide order dated 22.05.2014, directed that the recruitment proceedings be kept in abeyance. Subsequently, by the policy/order dated 30.06.2018, the concerned cadre stood absorbed into the School Education Department and the remaining vacant posts in the Panchayat/Local Bodies cadre ceased to exist. It is, therefore, submitted that no direction for appointment can now be issued.

4. We have considered the rival submissions and have carefully gone through the material placed on record as also the reasons assigned by the learned Single Judge.
5. From the facts noticed in the impugned order, it is evident that the recruitment process on the basis of which the appellants claim appointment did not culminate in issuance of appointment orders. The Screening Committee, while considering the recruitment process, noticed that the category of “Assistant Teacher (LB) was not contemplated under the Rules of 2013 and, accordingly, recommended that a fresh advertisement be issued after obtaining proper subject-wise clarification.

6. The aforesaid aspect assumes considerable significance. The appellants' claim is not founded upon an appointment order which was subsequently withheld or cancelled. Admittedly, no appointment order was ever issued in their favour. The recruitment process itself remained incomplete and was thereafter directed to be kept in abeyance by the competent authorities. Thus, the appellants cannot place themselves in the same position as a person who had already acquired a legal right pursuant to a completed selection and whose appointment was thereafter withheld for an extraneous reason.
7. The subsequent developments also cannot be lost sight of. The State Government, vide memo dated 25.04.2014, and the Directorate of Urban Administration and Development, vide order dated 22.05.2014, directed that the recruitment proceedings be kept in abeyance. Thereafter, the policy dated 30.06.2018 brought about a substantial change in the cadre structure. The teachers of the Panchayat/Local Bodies who fulfilled the prescribed length of service were absorbed into the School Education Department and, consequent upon such absorption, the remaining vacant posts in the Panchayat/Local Bodies cadre ceased to exist.
8. In these circumstances, the prayer of the appellants cannot be considered merely on the basis that vacancies were available at some earlier point of time. Availability of a vacancy, by itself, does not confer an indefeasible right to appointment, particularly where the recruitment process has not attained finality and the relevant cadre and posts have subsequently undergone a statutory/policy change.

9. We find that the learned Single Judge has dealt with the issue in considerable detail. More importantly, paragraph 35 of the impugned order squarely answers the principal reliance placed by the appellants. The learned Single Judge has recorded that the reliance placed by the appellants, was rendered in an entirely different factual background, where appointment orders could not be issued on account of an anomaly in the Government records concerning the pay scale.
10. The distinction noticed by the learned Single Judge is material and, in our considered opinion, calls for no interference. In the order impugned the learned Single Judge categorically recorded a finding that by virtue of the policy dated 30.06.2018, the cadre, which is in dispute, itself stood absorbed into the School Education Department and the remaining vacant posts ceased to exist and as such, the appellants herein cannot derive any enforceable right to appointment.
11. In the case at hand, the difficulty is not an administrative anomaly concerning the pay scale or a mere ministerial impediment in issuing appointment orders. The very recruitment process relied upon by the appellants had not attained finality; the category in which the appellants seek appointment was found not to be recognised under the Rules of 2013; the Screening Committee recommended a fresh recruitment process after subject-wise clarification; and, before the process could be completed, the competent authorities directed that the proceedings be kept in abeyance.
12. The subsequent absorption of the cadre pursuant to the policy dated

30.06.2018 and the consequent cessation of the remaining vacant posts constitute yet another circumstance which materially distinguishes the present case from the factual situation.

13. We also find substance in the observation of the learned Single Judge that the appellants cannot claim equality on the basis of alleged appointments made elsewhere. The principle embodied in Article 14 does not envisage negative equality. If an appointment was made contrary to the applicable Rules or pursuant to an irregularity, such appointment cannot furnish a basis for directing the authorities to perpetuate the same irregularity in favour of another person.
14. It is the trite law that Article 14 of the Constitution is not meant to perpetuate illegality or fraud even by extending wrong decisions made in other cases. It has only positive aspect, and negative equality is not envisaged thereunder. Equality cannot be claimed in illegality and cannot be enforced in a negative manner. *(See: Basawaraj and Another v. Special Land Acquisition Officer (2013) 14 SCC 81)*
15. The fact that some persons may allegedly have secured appointment elsewhere, therefore, does not by itself establish discrimination. The appellants were required to demonstrate that their cases were legally identical to those of the persons who were appointed and that such persons had been appointed pursuant to the same valid and completed recruitment process. The material noticed by the learned Single Judge, however, demonstrates otherwise.
16. There is another fundamental aspect which cannot be overlooked.

Merely because a candidate has participated in a selection process, or even finds place in a select list, he does not acquire an indefeasible right to appointment. The settled legal position is that, unless the applicable recruitment rules provide otherwise, the State is under no legal obligation to fill up every vacancy. At the same time, the discretion not to fill vacancies cannot be exercised arbitrarily. In the present matter, however, the respondents have placed before the Court the reasons which led to the recruitment process being discontinued and subsequently rendered unworkable.

17. Applying the aforesaid principles to the facts of the present case, we find that the appellants cannot claim appointment merely on the strength of their participation in the recruitment process or their alleged placement in the select list. The recruitment process had not culminated in appointments; the category itself was found not to be covered under the Rules of 2013; the competent authorities directed that the proceedings be kept in abeyance; and the subsequent policy decision resulted in absorption of the concerned cadre and cessation of the remaining vacant posts.
18. We have also considered the submission founded upon parity with other candidates. The learned Single Judge has rightly noticed that an illegality or irregularity committed in one case cannot be directed to be perpetuated in another. The respondents' stand cannot be termed discriminatory merely because some appointments were allegedly made elsewhere, particularly when the respondents have demonstrated that the recruitment process in question had not attained finality and was

subsequently rendered unworkable owing to the policy decision dated 30.06.2018.

19. On an overall consideration of the matter, we are satisfied that the learned Single Judge has neither overlooked any material fact nor committed any error of law warranting interference in intra-Court appellate jurisdiction. The conclusions recorded in the impugned order are supported by the factual circumstances and the settled principles governing the right of a selected candidate to claim appointment. The appellants, therefore, have failed to establish any enforceable legal right to seek appointment against the posts in question. They also fail to establish any discrimination or violation of Article 14 of the Constitution of India. The subsequent absorption of the cadre and cessation of the remaining vacant posts further render the relief sought by the appellants incapable of being granted.
20. Consequently, we find no merit in the present appeal. The same is, accordingly, dismissed.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice