

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 1476 of 2024
Reserved on: 17.06.2026
Decided on: 05.08.2026
Uploaded on:05.08.2026

Dr. Suket Kumar **...Petitioner**

Versus

Union of India and others **...Respondents**

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Dushyant Dadwal, Advocate.

For the respondents: Mr. Balram Sharma, Deputy Solicitor General of India with Mr. Rajeev Sharma, Advocate, for respondents No.1 and 2.

Mr. Surya Chauhan, Advocate, for respondent No.3.

Jiya Lal Bhardwaj, Judge

The petitioner by way of present petition has prayed for the following substantive reliefs:-

"A. *That the appointment of respondent No.3 may please be quashed & set-aside being illegal, arbitrary & unconstitutional with the further prayer to quash & set-*

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

*aside impugned office order dated 2nd November, 2023, annexure **P-13**.*

B. *That some independent agency may please be directed to conduct an enquiry/investigation in the selection made to the post of Lecturer Mathematics pursuant to advertisement no 06/1994, issued by the respondents & register a criminal case/FIR, against the respondent no 3 as also members of the then selection committee, who selected the candidates contrary to the selection criteria & offered the appointment to ineligible candidate i.e. respondent no 3, who was not eligible that too against the post reserved for SC category candidate. The independent agency may also be directed to decide the representation/complaint of the petitioner annexure **P-7**, within some time bound period, because the respondent has decided the same in an absolutely hasty & nasty manner contrary to the documents placed on record.*

C. *That the respondents may also be directed to produce the entire selection record of the respondent no 3 as also the entire & complete record with respect to advertisement no 06/94, pursuant to which respondent no 3 was selected & issued appointment letter, to lift the veil, so that truth can be culled out."*

2. Shorn of unnecessary details, key facts of the case are that respondent No.3 had applied for the post of Lecturer (Mathematics), as per advertisement No.6 of 1994 which post was meant for Scheduled Caste category. He was appointed against

the said post in the year 1994.

3. The petitioner has averred in the petition that he came to know in the year 2022, that respondent No.2-National Institute of Technology, (earlier Regional Engineer College), had made number of appointments contrary to the advertisements in an illegal, arbitrary and unconstitutional manner and the teachers were appointed without looking their eligibility, qualifications and category for which the posts had been advertised.

4. The petitioner has laid challenge to the appointment of respondent No.3, on the ground that he had received the information under the Right to Information Act (in short "RTI"), which discloses that in the year 1994, one post of Lecturer in Mathematics was advertised for Scheduled Caste category and the last date for receipt of the application was 21.06.1994, with a qualification of 1st Class in M.Sc. degree in the relevant subject, as per the All India Council for Technical Education (in short "AICTE") norms prevalent at the time, in any subject of applied sciences, whereas respondent No.3 was neither a candidate from Scheduled Caste category, as there was no certificate along with

his application form, nor anything with respect to the same was mentioned in the application form. Further he had not mentioned in the application form with regard to his 1st class M.Sc. degree. He had submitted his thesis for grant of Ph.D. degree, after the date of advertisement, meaning thereby he was not having any Ph.D. degree. The date of notification of his Ph.D. degree was 22.06.1994, whereas the last date for submission of the application form was 21.06.1994.

5. It has also been averred that as per the advertisement, a note was appended that in case of non-availability of suitable candidate from the Scheduled Caste category, post will be filled up from the General category candidate, but due to a Notification dated 07.06.1993, issued by the Ministry of Personnel, Public Grievances & Pensions (Deptt. of Personnel & Training), Government of India, the post reserved for Scheduled Caste/Scheduled Tribe candidates, could not have been filled up from General Category candidates, even by relaxing the Rules or by resorting to the method of transfer. It has further been averred that since respondent No.3 was not possessing the requisite qualification to hold the post and further respondents

No.1 and 2 had wrongly appointed him from General category, his appointment deserves to be quashed and set aside.

6. It has also been averred that after submitting the relevant documents, the petitioner was quite hopeful that his complaint will be considered, but he came to know that one of the members of so called committee, namely Dr. Subhash Chand is relative of respondent No.3 and even the Member Secretary of the so called committee, Sh. Gaurav Yadav, who is Assistant Registrar (Administration), is an appointee during the tenure of Professor Vinod Yadava, the then Director of National Institute of Technology (in short "NIT"), whose services have been terminated on the basis of the report of the committee, headed by Professor Anil Sehastrabudhe, as the Chairman of the committee (the then Chairman of AICTE), wherein, it was categorically held that number of irregularities have been committed in the recruitment process. It has further been averred that the appointment of respondent No.3 is not only illegal, arbitrary and unconstitutional, but is unfair and unjust and thus prayed for quashing the order dated 02.11.2023 (Annexure P-13) and also the appointment of respondent No.3.

7. Respondents No.1 and 2 filed reply to the petition and averred that no cause of action has accrued in favour of the petitioner and as such the petition is not maintainable. The petitioner has not come to the Court with clean hands. The principle of *suppressio veri and suggestio falsi* applies against him and the present petition deserves to be dismissed on this score alone. Further, the petitioner has not established any basis for his claim. It has further been averred that the issue raised by the petitioner has already been adjudicated upon by this Court in a petition filed by him being CWP No. 5065 of 2023, whereby a direction was given to the respondents to decide his representation/complaint by a speaking order and in compliance with the said decision, respondent No.1 has passed an order on 26.09.2023 and before passing the said order, the petitioner was afforded with an opportunity of being heard. The objection of the petitioner regarding constitution of the committee was misleading. It has further been averred that Dr. Subhash Chand is not related to respondent No.3 by blood and there was a change in the roll of Assistant Registrar resulting in Sh. Gaurav Yadav assuming the responsibilities of Assistant Registrar

(Administration) and becoming a member of the committee.

8. It has also been averred that as per the qualification prescribed for the post under advertisement No.6 of 1994, the eligibility of respondent No.3 could not be verified at that stage on the basis of curriculum vitae submitted by him. However, the certified copy of the relevant degree certificate was attached. Respondent No.3 had acquired the qualification of Ph.D. on 22.06.1994. As per the advertisement, in the event of non-availability of suitable candidate of Scheduled Caste category, the post will be filled from General category and appointment of respondent No.3 has been made on the basis of norms prescribed by University Grants Commission (in short "UGC") for appointment to the teaching post.

9. It has further been averred that respondent No.1 has not violated any norms. The documents sought by the petitioner under RTI were weeded out in the year 2007 about 13 years ago prior to the RTI application and as such respondents No.1 and 2 have prayed for dismissal of the present petition.

10. Respondent No.3 filed separate reply to the petition and raised preliminary objections that the petition is nothing, but

an abuse of process of law. The averments made in the petition are malicious combination of selective misinformation and concealed facts. The petition is not maintainable in view of the decision passed by this Court in **CWP No. 898 of 1994**. The petition is suffering from the principle of *constructive res judicata* as the selection of respondent No.3 was challenged and the writ petition was dismissed on merit. The petitioner has no *locus standi* to file and maintain the present petition as he is neither a member of Scheduled Caste category nor is a candidate against the advertisement No.6 of 1994. The petition is suffering from the principle of *delay and laches* as respondent No.3 was selected in the year 1994 and the present petition has been filed in the year 2024 i.e. after about 30 years of the selection of the petitioner.

11. It has further been averred that respondent No.3 was possessing the requisite qualification to hold the post. The last date of receipt of the applications was 21.06.1994 and the same was extended vide notice dated 20.06.1994 (Annexure R-3/B) upto 22.06.1994. Respondent No.3 had passed degree of M.Sc. (Mathematics) from H.P. University in June, 1989 and got 1st

position and Gold Medal. The success of respondent No.3 was also published in newspaper at that time and copy of certificate issued has also been placed on record. After completing Ph.D. degree, thesis of respondent No.3 was approved by the Vice-Chancellor on 11.06.1994 and thereafter the same was notified by the Himachal Pradesh University, vide Notification dated 22.06.1994 and as such, he was possessing the requisite qualification on the last date of submission of the application form. The petition being devoid of merits as well as hit by the principle of *delay and laches*, deserves to be dismissed.

12. The petitioner filed rejoinder to the replies filed by the respondents and controverted the pleas raised therein.

13. The learned counsel for the petitioner had placed reliance upon the judgments of Hon'ble Supreme Court in ***Ashok Kumar Sonkar vs. Union of India and others***, (2007) 4 SCC 54, ***Suman Devi and others vs. State of Uttarakhand and others***, (2021) 6 SCC 163, ***Chief Executive Officer, Bhilai Steel Plant, Bhilai vs. Mahesh Kumar Gonnade and others***, (2022) 18 SCC 699; and ***Dr. Premachandran Keezhoth and another vs. Chancellor Kannur University and others***, AIR

2024 SC 135, to contend that since the petitioner was not possessing the requisite qualification on the last date fixed for receipt of the application form and further submitted the false certificate, this Court can overlook the *delay and laches* in filing the petition, especially when the petitioner came to know about these facts only after receipt of the information under the RTI.

14. On the other hand, the learned counsel representing the respondents had vehemently argued that since the issue in the present petition has already been adjudicated upon in the earlier proceedings, the petition is hit by the principle of *res judicata* and further the petition is hopelessly time barred. Not only this, once the petitioner had not applied for the post in pursuance to the advertisement No.06 of 1994, he has no *locus standi* to file the present petition.

15. I have heard the learned counsel for the parties and also perused the record carefully.

16. Before proceeding further, it is relevant to mention that appointment of respondent No.3 was earlier challenged by way of CWP No. 898 of 1994, titled, ***Shri Navneet and another vs. Regional Engineering College and Ors.*** on the ground

that they belong to Scheduled Caste category and possessed the requisite qualification for the reserved post of Lecturer in the discipline of Electrical Engineering and Mathematics and respondent No.3 has wrongly been appointed after de-reserving the said post. The said petition came to be dismissed on 04.03.1999, when the Court had come to the conclusion that though the advertisement inviting applications was vague to the extent that provision of reservation was mentioned against the post of each disciplines without explaining that only one post out of 7 posts of Lecturers will be filled from amongst the Scheduled Caste candidates in view of 12% reservation provided for Scheduled Caste candidates in the relevant Rules, instructions and guidelines, but any ambiguity in the advertisement does not give a right to the petitioners to claim that the appointment of respondent No.3 and other respondents made in reserved category over and above the prescribed quota of 12%, is bad. The Court had also considered that as per the Rules, instructions and guidelines for reservation, only one post of Lecturer was reserved for Scheduled Caste candidates, against which, one Sh. Narottam Chand was appointed as Lecturer in the discipline of

Computer Science and Engineering. It has further been considered by the Court that respondents No.1 and 2 had rightly made provisions for reservation against each discipline in the advertisement to give an opportunity to reserve category candidates, having qualification in each discipline, but appointment was required to be made in the reserved category only to the extent of quota prescribed under the Rules and as such, the petitioners did not have any right to be appointed against the reserved post, as claimed by them and as such dismissed the Writ petition.

17. Once the Division Bench of this Court has already adjudicated the issue, which was raised by the persons, who were belonging to Scheduled Caste category staking the claim that the post, which was meant for Scheduled Caste category could not have been de-reserved and further respondent No.3 could not have been offered the appointment, this Court cannot reopen the matter, that too, at the instance of the petitioner, who has neither explained the *delay and laches* in filing the present petition nor has any *locus standi* to file the present petition since he has not applied for the post. It is admitted fact that the petitioner had

neither applied for the post in question nor he belongs to Scheduled Caste category. The petitioner under the garb of decision dated 02.11.2023 (Annexure P-13) cannot challenge the appointment of respondent No.3, especially when the issue has already been adjudicated and furthermore, there is no explanation worth credence in filing the petition after more than 30 years of selection of respondent No.3.

18. The Division Bench of this Court has already considered the matter succinctly, the petition preferred by the petitioner is hit by the principle of *constructive res judicata*. Once the Division Bench had dismissed the petition challenging the selection and appointment of respondent No.3 by the persons, who belonged to the Scheduled Caste category, the decision rendered had become final and now the same plea taken cannot be countenanced and the decision rendered could have been altered only by the Hon'ble Supreme Court. Reference in this regard is made to the Constitution Bench decision of the Hon'ble Supreme Court in ***Devilal Modi versus Sales Tax Officer, Ratlam and others***, AIR 1965 SC 1150.

19. The plea taken by the petitioner that respondent No.3

was not eligible on the last date for submission of the application form is wrong for the reason that he has placed on record the documents, which suggest that the date for receipt of the application form was extended, as evident from a perusal of Annexure R-3/B, meaning thereby on the said date, respondent No.3 was in possession of the Ph.D. degree, which entitled him to hold the post of Lecturer (Mathematics) and thus, no illegality has been committed by respondents No.1 and 2 to offer appointment to him after de-reserving the post.

20. The petitioner otherwise has no locus to challenge the appointment of respondent No.3 since he was neither applicant in the advertisement nor belongs to Scheduled Caste category for which the post was initially reserved. The writ of quo warranto can lie only if the usurper of the post is without legal authority and the office is a public office. In the present case, the petitioner was holding the qualification of M.Sc. degree, which was the essential qualification as per the advertisement and further on the last date of receipt of the application form, he was even possessing the qualification of Ph.D. degree.

21. The Hon'ble Apex Court has time and again held that

once the issue has already been adjudicated though raised by some other party, the same cannot be adjudicated in a petition instituted by another person. In the present case, once this Court had already adjudicated upon the issue, the petition filed by the petitioner is hit by the principle of *constructive res judicata*. Further the petitioner has no *locus standi* to challenge the appointment of respondent No.3 and also there is inordinate delay in approaching the Court.

22. Consequently, the present petition is dismissed on the grounds of *constructive res judicata*, *locus standi* as well as *delay and laches*. No order as to costs. Pending applications, if any, also stand disposed of.

05th August, 2026
(*priti*)

(Jiya Lal Bhardwaj)
Judge