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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 271 of 2012**

Dr. Kamlesh Jain S/o Prakash Chand Jain, aged about 36 years, R/o Gulabchand Jain, C-110, Sector-1, Devendra Nagar, Raipur, Chhattisgarh.

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Versus

1. State of Chhattisgarh, through the Secretary, Department of Health and Family Welfare, DKS Bhawan, Mantralaya, Raipur.
2. Chhattisgarh Public Service Commission through its Secretary, Shankar Nagar, Raipur, Chhattisgarh.
3. The Director, Directorate of Medical Education, DKS Bhawan, Raipur, Chhattisgarh.
4. Dr. Jagriti Agarwal D/o B.N. Agarwal, Gandhi Mandir Ward, Bhatapara, Distt. Raipur, Chhattisgarh.
5. Dr. Mritunjay Rathore R/o Deonandan Nagar, Phase 1, Chantidih, Seepat Road, Bilaspur, Chhattisgarh.
6. Dr. Shiksha Jangde R/o MIG 60 Nehru Nagar, Bilasur, Chhattisgarh.
7. Dr. Suprava Patel C/o Prashanta Nag, Mahammadia Bazar, G.P. Das Lane, Cuttack (Orissa)
8. Dr. Praveen Sablania R/o 4923/40, Raigar Pura, Karol Bagh, New Delhi.
9. Dr. Ashish Kumar Sinha R/o 25, Jawahar Nagar, Post Mohan Nagar, Near Pani Tanki, Durg, Chhattisgarh.
10. Dr. Divya Sahu R/o 19, Riddhi Siddhi Residency, Saint Xavier School Road, Awanti Vihar, Raipur, Chhattisgarh.
11. Dr. Teeku Ram Sinha R/o Sinha Niwas, Ekta Chowk, Laxmi Nagar Panchpedi Naka, Raipur, Chhattisgarh.
12. Dr. Praveen Kumar Shrivastava, C/o Shrirang Mishra, Near Bhairamdeo Mandir, Panch Chowk, Jagdalpur, Chhattisgarh.
13. Dr. Nikita Sherwani (Ahuja) through Directorate Of Medical Education, DKS Bhawan, Raipur, Chhattisgarh.
14. Dr. Alakh Ram Verma R/o MIG-66, Sector 1, Shankar Nagar, Raipur, Chhattisgarh.
15. Dr. Suresh Kumar Dwivedi R/o 3 Verghes Colony, Phase II, Aghanpur, PO Dharampura, Jagdalpur, Bastar, Chhattisgarh.
16. Dr. Pratibha Khosla Through Directorate of Medical Education, DKS Bhawan, Raipur, Chhattisgarh.

17. Dr. Prasenjit Raut R/o P-8, Dubey Colony, Po Saddu, Raipur, Chhattisgarh.
18. Dr. Usha Joshi R/o Qr. No. C/3, Sai Complex, Near Sai, Mandir, Devendra Nagar, Raipur, Chhattisgarh.
19. Dr. Basant Maheshwari through Directorate of Medical Education, DKS Bhawan, Raipur, Chhattisgarh.
20. Dr. Shashikala Kashyap R/o B-31, Shriram Vihar Colony, Purena, Raipur, Chhattisgarh.
21. Dr. Nighat Hussain R/o BK D-10, Sector 9, Bhilai, Distt. Durg, Chhattisgarh.
22. Dr. Azad Khemlal C/o P.L. Das, Ward No.4, House No.36, Mahadev Ghat Road, Jagdalpur, Chhattisgarh.
23. Dr. Shruti Shrivastava C/o Shri A.K. Shrivastava, House No. 11, Street No. 23, Sector 4, Bhilai, Distt. Durg, Chhattisgarh.
24. Dr. Rashmi Shardachandra Gupta C/o Dr. DK Sao, Suchitra Bhawan, Ashok Vihar, Sarkanda, Bilaspur, Chhattisgarh.
25. Dr. Jayanti Mourya R/o D-13, Anupam Nagar, Near Ganesh Temple, Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Kshitij Sharma, Advocate
For Respondent/State	:	Shri U.N.S. Deo, Government Advocate
For other Respondents	:	Dr. N.K. Shukla, Senior Advocate with Shri Y.C. Sharma, Shri Sandeep Dubey, Shri Prateek Sharma and Shri Sunil Otvani, Advocates

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.**

Order on Board

Per NAVIN SINHA, C.J.

05/05/2015

1. The present appeal arises from order dated 29.3.2012 dismissing Writ Petition (S) No. 1727 of 2011 filed by the Appellant.
2. The issue in the writ application related to advertisement dated 27.9.2008 for appointment on the post of Assistant Professor (Clinical),

(Non-Clinical) and (Demonstrators) by the Chhattisgarh Public Service Commission (hereinafter referred to as 'the PSC').

3. Learned Counsel for the Appellant submitted that he was an applicant for the post of Assistant Professor in the non-clinical subject Preventive and Social Medicines (hereinafter referred to as 'the PSM'). His application was rejected as he was alleged not to have filled up the name of the Department and the post applied for. The representation against the same was also rejected on 11.12.2009. Writ Petition (S) No.1673 of 2010 challenging the same inter-alia on the ground of discrimination seeking mandamus to be called for interview scheduled on 19.4.2010 was dismissed by a reasoned order on 26.4.2010. Thereafter the Appellant kept representing the matter before the authorities leading to an enquiry being directed by the State Government. The PSC then found two more candidates with similar defects i.e. Dr. Suresh Kumar Dwivedi and Dr. Usha Joshi. Their names were consequently removed from the select-list. The two persons challenged the action of the PSC in Writ Petition (S) No. 4001 of 2011 and Writ Petition (S) No. 4159 of 2011 which has been allowed.

4. The thrust of the submission therefore was that the Appellant has been subjected to hostile discrimination due to arbitrary action of the PSC in not granting him a similar benefit for participation in interview despite a defective application as granted to Dr. Dwivedi and Dr. Joshi. It was on the complaint of the Appellant that the State Government had ordered an enquiry into the select-list prepared by the PSC. Acknowledgement by the PSC of a wrongful benefit granted to Dr. Dwivedi and Dr. Joshi was a subsequent development and which gives

rise to a fresh cause of action to the Appellant notwithstanding the dismissal of his earlier Writ Petition (S) No. 1673 of 2010.

5. Learned Senior Counsel, Dr. Shukla appearing for the PSC submitted that the Learned Single Judge has adequately discussed the finality of the order in Writ Petition (S) No. 1673 of 2010 filed earlier by the Appellant which has attained finality inter-parties as it was not carried in appeal. The Appellant not being an applicant has no *locus standi* in the matter. Dr. Dwivedi and Dr. Joshi challenged the action of the PSC and the Court has ruled in their favour for reasons discussed, which distinguishes the claim of the Appellant completely. The Learned Single Judge has rightly held that the writ petition was in the form of a Public Interest Litigation (PIL) evident from the prayer portion seeking quashing of the entire select-list.

6. We have considered the submissions on behalf of the parties.

7. If the application submitted by the Appellant was declared to be defective and was not accepted by the PSC because it did not mention the post and name of the Department, and the challenge to it was unsuccessful on 26.4.2010, the issue of the candidature of the Appellant attained finality inter-parties, in so far as he and the PSC are concerned. The situation was akin to his never having applied for the post. After the rejection of his representation on 11.12.2009, interviews of eligible candidates were held from 19.4.2010 to 30.4.2010, the select-list published on 1.5.2010 and the recommendations made by the PSC on 6.5.2010. All this while the Appellant accepted matters in so far as he is concerned without demure till he filed a fresh writ application giving rise to the present appeal nearly one year later after

dismissal of his earlier writ petition on 28.3.2011. We have gone through the pleadings in the writ application. No explanation whatsoever has been furnished for the period 26.4.2010, the date of dismissal of the earlier writ petition till filing of the fresh writ petition on 28.3.2011. The Appellant seeks to take advantage of his own indolence and laches in not pursuing matters in appeal by seeking to again jump into the fray for a post under an advertisement in which he does not even fall in the category of an applicant. The contention that subsequent developments have given him a cause of action, also does not appeal to us. Any *locus standi* of the Appellant stood extinguished on the dismissal of his earlier writ petition.

8. The Learned Single Judge has adequately discussed that Dr. Dwivedi and Dr. Joshi had been called for the interview and were successful. Only an oral submission had been made with regard to their applications being defective not supported by documentary evidence. Once they had been selected and were called for interview, it was too late to reject their application forms for any errors. The findings have been challenged by none. In the entirety of the matter, we find no reason to take any different view of the matter from that taken by the Learned Single Judge in his conclusion with regard to the Appellant at paragraph 40 of the order under appeal and entirely concur with the same.

9. The appeal is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE

