

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1247 of 2013**

Jitendra Kumar Patel aged about 33 years, s/o Shri Prakash Kumar Patel
r/o village & post – Salhe police station Dabhara tahsil Dabhara, district
Janjgir-Champa, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary Panchayat & Rural Development Department, Mahanadi Bhawan, Naya Raipur, Naya Raipur Chhattisgarh.
2. Secretary General Administration Department, Mahanadi Bhawan, Naya Raipur, Naya Raipur Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat, Patthalgoan, district-Jashpur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Mateen Siddique, Advocate.
For Respondents No.1 & 2	:	Shri U.N.S. Deo, Government Advocate.
For Respondent No.3	:	Shri Pawan Shrivastava, Advocate.

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

Order On Board**Per NAVIN SINHA, C.J.****16/6/2015**

1. Heard Learned Counsel for the Petitioner and the Respondents.
2. The order sheet of this case reflects that the writ application was never admitted for hearing and remained pending at the admission stage. Nonetheless, the office on its own understanding treated it to be an admitted case and has listed it for hearing. The office is required to be more careful. It is only cases in which specific orders

are passed admitting the case for hearing which are to be listed under the heading 'Final Hearing'.

3. Learned Counsel for the Petitioner has argued that the notification dated 17.1.2012 is applicable only to appointments in Government Service and cannot apply to the appointment of Shiksha Karmis who are not Government Servants. He has further argued that the notification restricting the applicants to a particular district is ultra vires the Constitution and unsustainable. Other submissions have also been made.

4. We have heard counsel for the State also.

5. Since the writ petition can easily be disposed on another short question, we are not inclined to go into the larger questions sought to be urged on behalf of the Petitioner, and leave it open for consideration in an appropriate case.

6. The Respondents published an advertisement for appointment of Assistant Teachers on 7.12.2012. The last date for submission of applications was 26.12.2012. Clause 2.1 of the advertisement specifically stated that it was restricted to permanent residents of District Jashpur only and had to be accompanied by a permanent residence certificate issued by the Competent Authority. The Petitioner is not a resident of District Jashpur, but a permanent resident of District Janjgir-Champa. Nonetheless he applied in response to the advertisement. It was rejected on 11.3.2013, on the ground that he was not a permanent resident of Bastar or Sarguja Division as required under the advertisement and therefore ineligible to apply.

7. If the Petitioner was aggrieved by the requirement for permanent residence he ought to have challenged the same before expiry of the last date for submission of applications. He cannot submit an ineligible application, fully aware of the fact that he did not meet the conditions of eligibility, and when it is formally communicated to him, turn around and make it a cause of action. Nothing new happened on 11.3.2013 when he was communicated the rejection. The situation is akin to the Petitioner never having applied for the post. Any other interpretation would amount to giving the Petitioner an advantage for his own wrongful conduct.

8. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE