

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1113 of 2015**

- Tiku Ram Verma S/o Shri Bideshi Ram Verma Aged About 28 Years R/o Village & Post Pendraavan, Thana & Tahsil Dhamdha, District Durg, (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Raipur (Chhattisgarh)
2. The Director Urban Administration And Development Department, Indrawati Bhawan, New Raipur, (Chhattisgarh)
3. The Chief Municipal Officer, Nagar Panchayat, Pandariya, District Kabirdham (Chhattisgarh)
4. Joint Director, Urban Administration And Development, Raipur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri SK Verma, Advocate
For Respondent-State	:	Shri Shashank Thakur, GA for the State
For Respondent No.3	:	Shri Harshal Chouhan, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****07/09/2015**

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction to respondent No.3 to issue appointment order for the post of Teacher (Hindi) from the merit list prepared by the said respondent.
2. An advertisement was issued by Nagar Panchayat, Pandariya, district Kabirdham on 1-6-2013 for filling up the post of Teacher (Hindi), amongst several other posts. One Ajay Kumar Soni was initially appointed on

31-12-2013, however, his appointment was cancelled on 25-2-2014. In March-2014, another merit list was released, wherein petitioner was placed at serial No.2 and one Punita Kaushik was placed at serial No.1. Even without issuance of any letter of appointment in favour of Punita Kaushik, she informed the Nagar Panchayat that she is not willing to be appointed as Teacher (Hindi), therefore, her name be deleted from the merit list. The petitioner claims that after refusal by Punita Kaushik to obtain appointment as Teacher (Hindi), he would be placed at serial No.1 in the merit list, therefore, respondent No.3 should have appointed the petitioner, however, no action was taken on his representation.

3. Learned State counsel, as well as, learned counsel for respondent No.3 would refer to the return filed by them to contend that by order dated 22-5-2014 issued by the Urban Administration and Development Department; by order dated 25-4-2014 issued by the Panchayat and Rural Development Department; order dated 30-6-2015 issued by the Director, Public Instructions; order dated 1-8-2015 issued by the Director, Public Instructions and the communication dated 2-5-2014 issued by the Finance Department, the State Government has decided that since teachers are in excess in the department of Panchayat and department of Urban Administration and Development, it has initiated exercise of rationalization/adjustment of teachers, therefore, till further orders, it has been decided not to fill up any post of teacher. They would argue that in view of the policy decision taken by the State Government, the relief prayed for in the writ petition is not admissible.
4. It is settled law that merely because the name of the candidate finds place in the select list or waiting list, it would not confer upon him any indefeasible right to get the appointment as well. (See: **Manoj Manu & another Vs.**

Union of India & others¹⁾

5. In the case in hand, after cancellation of appointment of Ajay Kumar Soni, a select list has not been prepared. Annexure P-5 is only a merit list wherein the petitioner is at serial No.2. No appointment letter has been issued in favour of Punita Kaushik, who is at serial No.1 in the merit list. The stage of refusal by Punita Kaushik would arise only when an appointment is offered to the said candidate. In the absence of any final select list having been prepared, the petitioner, who is at serial No.2 in the merit list has got no right to maintain a writ petition for issuance of writ of mandamus directing the appointing authority to appoint him on the post.
6. Moreover, the State Government having taken a policy decision not to appoint teachers in the department of Panchayat and in the department of Urban Administration and Development, this Court cannot ignore the said policy decision to issue a writ of mandamus.
7. For the foregoing, the writ petition stands dismissed.

Sd/-

Judge
Prashant Kumar Mishra

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1 (2013) 12 SCC 171