

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1211 of 2015

- Prem Lal Gilhare S/o Late Sahdev Gilhare Aged About 38 years Presently Posted As Peon At Tribal Research & Training Institute Raipur, District Raipur, R/o Village Baronda, Po Bangoli, District Raipur, (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1212 Of 2015

- Narendra Kumar Dewangan S/o Vishnu Prasad Dewangan Aged About 41 years Presently Posted As Peon At Tribal Research & Training Institute Raipur, District Raipur, R/o Village Awadhपुरी Bhatagaon, PO Sundar Nagar, Raipur, District Raipur, (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1213 Of 2015

- Manoj Kumar S/o Rameshwar Singh, Aged About 27 years, Presently Posted As Chowkidar At Tribal Research & Training Institute, Regional Unit Jagdalpur, District South Bastar Dantewada, R/o Village & PO, Tahsil & PS Antagarh (Nayapara), Ward No. 02, Mahadev Ward, District North Bastar Kanker, (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)
3. Deputy Director, Tribal Research & Training Institute Regional Office, Jagdalpur, (C.G.)

---- Respondents

And

WPS No. 1295 Of 2015

- Smt. Sakne Sarita W/o Bira Kishor, Aged About 32 years, Presently Posted As Peon At Tribal Research & Training Institute Raipur, District Raipur; R/o D.D. Nagar, Sector-2, P.S. D.D. Nagar, District Raipur (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1291 Of 2015

- Paik Ram Naktode S/o Shivcharan Naktode, Aged About 32 years Presently Posted As Peon At Tribal Research & Training Institute Raipur, District Raipur, R/o D.D.Nagar, P.S. D.D.Nagar, Raipur, District Raipur, (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay

Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1290 Of 2015

- Bhola Ram Chaturvedi S/o Noor Das Chaturvedi, Aged About 25 years Presently Posted As Peon At Tribal Research And Traning Institute Raipur, District Raipur R/o Village Kusmund P.S. Arang, Raipur District Raipur (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1293 Of 2015

- Devkaran Mandavi S/o Tulsaram Mandavi, Aged About 25 years, Presently Posted As Peon At Tribal Research & Training Institute Raipur, District Raipur, R/o Village & Post Kotela, P.S. & Tahsil Charama, District U. B. Kanker, (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1354 Of 2015

- Balram Kashyap S/o S/o Bechan Ram Kashyap Aged About 30 years Presently Posted As Chowkidar At Tribal Research & Training Institute, Regional Office, Ambikapur District Sarguja, R/o Village Rampur, Tahsil &

PS Ambikapur District Sarguja (C.G.)

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)
3. Deputy Director, Tribal Research & Training Institute Regional Office, Ambikapur District Sarguja (C.G.)

---- **Respondents**

And

WPS No. 1358 Of 2015

- Omprakash S/o Late Shri Janki Ram, Aged About 25 years, Presently Posted As Peon At Tribal Research & Training Institute, Regional Office, Ambikapur District Sarguja, R/o Village Mudesha, Tahsil & PS Ambikapur District Sarguja (C.G.)

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)
3. Deputy Director, Tribal Research & Training Institute Regional Office, Ambikapur District Sarguja (C.G.)

---- **Respondents**

And

WPS No. 1360 Of 2015

- Ajit Kumar Miri, S/o Achche Ram, Aged About 27 years, Presently Posted As Chowkidar At Tribal Research & Training Institute, Regional Office, Bilaspur District Bilaspur; R/o Ward No. 14 Renger Para, Tahsil & PS Sarangarh, District Raigarh (C.G.)

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)
3. Deputy Director, Tribal Research & Training Institute Regional Office, Bilaspur (C.G.)

---- Respondents

And

WPS No. 1363 Of 2015

- Khirsagar Bharti S/o S/o Chakrapani Bharti, Aged About 36 years, Presently Posted As Farrash At Tribal Research & Training Institute Raipur, District Raipur; R/o Pt. RSS Nagar Amanaka. P.S. Saraswati Nagar, Raipur, District Raipur (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

---- Respondents

And

WPS No. 1362 Of 2015

- Ranjit Das Deshlahre, S/o Janak Lal, Aged About 27 years, Presently Posted As Chowkidar At Tribal Research & Training Institute, Regional Office, Raipur District Raipur ; R/o D.D. Nagar Banjari Nagar, Raipur PS D.D. Nagar, District Raipur (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, (C.G.)
2. The Director, Tribal Research & Training Institute, Pt. Deendayal Upadhyay Nagar, Sector-4, Raipur, District Raipur, (C.G.)

3. Deputy Director, Tribal Research & Training Institute Regional Office, Raipur (C.G.)

---- Respondents

For Petitioners	:	Shri Mateen Siddiqui, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

21/04/2015

1. Petitioners were appointed on different Class IV posts like Farrash, Peon and Watchman in the Directorate of Tribal Research Institute vide appointment order dated 25/07/2013. The said order of appointment was issued pursuant to a selection process for which advertisement was issued on 21/12/2012.
2. Challenging the appointments, complaints were moved by one of the unsuccessful candidate as also by a member of principal opposition party of the State alleging large scale illegalities and irregularities in making the appointment.
3. The State Government constituted a Committee to inquire into the allegations of illegalities while making the appointment. The Inquiry Committee consisted of the Joint Secretary in the department of Scheduled Caste and Scheduled Tribe, Government of Chhattisgarh, the Financial Advisor in the said Department and the Joint Director (Finance), Office of the Commissioner, Scheduled Caste and Scheduled Tribe Development Department. The Committee submitted its detailed report running into 22 pages finding that under the applicable recruitment rules i.e. Chhattisgarh Scheduled Tribe and Harijan Welfare Subordinate Services – Cadre Class IV Service Recruitment Rules, 1972 the educational qualification for the post of Farrash, Peon and Watchman is 5th standard pass whereas in the subject advertisement the minimum qualification was mentioned as 8th standard pass, therefore, the same is contrary to the rules. The Committee also found that while preparing the merit list the petitioners have been awarded marks on the head of 20% marks for the qualifying examination and added the marks of experience and thereafter once again the marks of experience were additionally allotted to them. Thus, the marks awarded for experience were taken into consideration twice, inflating the total marks equal to the marks for which persons selected for Peon have been awarded on the head of experience.

4. Learned counsel for the petitioners would refer to the report of the Inquiry Committee annexed with the return and would submit that the Committee itself found that only two candidates namely Meena Yadav and Sukhram Baghel would be ousted from the merit list and the others shall remain, though their position in the merit list may change. Thus, ultimately their selection would not be affected, therefore, issuing notice for termination of their services is wholly illegal. He would submit that copy of the inquiry report has not been supplied to the petitioners along with show cause notice and the contents of the notice clearly demonstrate that a decision has already been taken and the opportunity of hearing is sham, therefore, the same has been issued in formal compliance of the principles of natural justice.

5. Per contra Shri Thakur, learned State counsel would submit that since the illegality found by the Inquiry Committee is not qua the petitioners, although the petitioners may be the persons who would be ultimately affected, the inquiry report has not been supplied to them. He would submit that the complaint was not against the petitioners but it was against the illegalities committed by the Selection Committee. He would lastly submits that when the rules have been violated, the appointment has to go.

6. Considering the rival submission and for the fact that the respondents have not passed any final order in the matter and also for the reason that since a show cause notice have been issued to the petitioners, it cannot be concluded at this stage that a decision has already been taken for their removal, the writ petitions are disposed of with direction to the respondents to supply copy of the report of the Inquiry Committee to each of the petitioners within 15 days and thereafter grant each one of them sufficient time to respond to the notice by filing reply or additional reply and thereafter pass final order after providing personal hearing to the petitioners, if any such request is made in writing.

7. The entire exercise, as indicated above, shall be concluded within a period of two months from today. Till the matter is finally decided, the petitioners shall be allowed to continue.

J U D G E