

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 482 OF 2015

1. Antram Shrivas S/o Nandlal Shrivas, aged about 38 years, R/o Village & Post Birra, P.S. Birra, Tahsil & District Janjgir-Champa (C.G.)
2. Smt. Janki Thawait W/o Surendra Kumar Thawait, aged about 28 yrs, R/o Village & Post Khokhra, Tahsil & District Janjgir-Champa (CG)
3. Ravi Kumar Liberty S/o Dilharan Lal Liberty, aged about 31 years, R/o Village & Post Baimanagoi, Bilaspur, District Bilaspur (C.G.)
4. Ranjit Singh S/o Late Gyan Singh, aged about 26 years R/o Q. No. F-763, Kailash Vihar, C.S.E.B. (West) Jailgaon Chowk, Jamnipali, District Korba (C.G.)
5. Anuradha Kunte D/o Sitaram Khunte, aged about 27 years R/o Q. No. 261, Sector-3, Type-A, Balco Nagar, District Korba (C.G.)
6. Ku. Madhu Sahu D/o Kaleshwar Sahu, aged about 25 years R/o Minimata, Ward No. 11, at Fingeshwar, District Gariyaband (C.G.)
7. Ashish Kumar Nishad S/o Late Ramlal Nishad, aged about 27 years, R/o Kewdabadi, Kewtapara, Raigarh, District Raigarh (C.G.)
8. Laxmi Narayan Rajak S/o B.P. Rajak, aged about 38 years, R/o Katiyapara, Durga Chowk, Juna Bilaspur, District Bilaspur (C.G.)
9. Ku. Shyama Patel D/o Ganesh Ram Patel, aged about 26 years, R/o Village Patrapali, Transport Nagar, Jindal, Raigarh (C.G.)
10. Ku. Pratima Sahu D/o K. R. Sahu, aged about 26 years, R/o Q. No. B/79, Adarsh Nagar, Kushmunda, District Korba (C.G.)
11. Ku. Jyoti Dewangan D/o Rishikesh Dewangan, aged about 25 years, R/o Palace Road, Koshtapara, Raigarh (C.G.)
12. Ku. Shlesha Sharma D/o Suresh Kumar Sharma, aged about 25 years, R/o Village Judda, Tahsil & District Raigarh (C.G.)

... Appellants

Versus

1. State of Chhattisgarh, through Secretary, Panchayat and Rural Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
2. State of Chhattisgarh, through Secretary, Department of Finance, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)
3. Director, Panchayat, Directorate, Chhattisgarh, Raipur (C.G.)
4. Chief Executive Officer, District Panchayat, Raigarh (C.G.)
5. Smt. Barkha Agrawal, W/o Rajiv Agrawal, aged about 29 years, R/o Durga Nagar, Birgaon, Raipur (C.G.)
6. Deep Kumar Aditya, S/o Bhojram Aditya, aged about 30 years, R/o Village Odekera, Post Jaijaipur, District Janjgir-Champa (C.G.)

... Respondents

Mr. Laxmi Narayan Rajak, Appellant No.8, in person.

Mr. B. Gopa Kumar, Deputy Advocate General, for Respondent-State.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

13/10/2015

1. Appellant No.8 appears in person. He is not an Advocate registered with a Bar Council licensed to practice and represent clients. He has therefore no authority to pursue the appeal on behalf of other Appellants except himself.
2. At this stage, Appellant No.8 submits that he may be permitted to delete Appellants No. 1 to 7 and 9 to 12 and pursue the appeal in his individual capacity.
3. Let the office delete the names of Appellants No. 1 to 7 and 9 to 12 from the cause-title.
4. The appeal is held to be maintainable only on behalf of Appellant No.8 appearing in person.
5. The present appeal arises from order dated 13.8.2015 dismissing Writ Petition (S) No. 2393 of 2015 holding that even if the Appellant was included in the select list for appointment as Lecturer (Panchayat) in the Zila Panchayat, Raigarh, no indefeasible right has accrued to him by empanelment more so when the advertisement was issued on 29.5.2014 after the ban on appointments, dated 2.5.2014 and 8.5.2014.
6. The Appellant appearing in person submits that a bare reading of the communications dated 2.5.2014 and 8.5.2014 make it evident that there was no complete ban on appointments. The ban was only to the extent that appointments could not be made without prior approval. It was specifically averred in paragraph 8.7 of the writ petition that the Chief Executive Officer, Zila Panchayat, Raigarh had written to the Director, Panchayat, Directorate, for grant of permission to make the

appointments. The Learned Single Judge did not adequately consider this fact. The select list in which the name of the Appellant figured was prepared on 1.10.2014. The writ petition was filed by him well within the life of the select list on 30.6.2015. Appropriate directions should have been issued to the authorities to take final decision with regard to the letter of the Chief Executive Officer, Zila Panchayat, seeking permission for appointments.

7. Learned Counsel for the State submits that evidently from the communications dated 2.5.2014 and 8.5.2014 prior approval was required before making the appointments. The advertisement having been issued without prior approval, there is no error in the order of Learned Single Judge calling for interference. The advertisement has admittedly been issued after the communications dated 2.5.2014 and 8.5.2014.

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

9. There can be two situations (a) a complete ban on appointments and an advertisement issued notwithstanding the same (b) a ban on appointments without prior approval. In the latter case, the ban may get lifted if approval is given. If approval is denied, the ban exists; no appointments can be made. The grant of approval can also be post-facto in nature. This cannot be considered as any opinion and/or observation by us in the facts of the case to grant post-facto approval.

10. If the circulars dated 2.5.2014 and 8.5.2014 imposed a ban but simultaneously visualized grant or rejection of approval and the Chief Executive Officer, Zila Panchayat, had already written seeking approval on 12.11.2014, appropriately, the Learned Single Judge ought to have given directions to the authorities for taking a final decision on the request of the Chief Executive Officer, Zila Panchayat. Depending on

the final decision that the authorities may take to grant approval or not to grant approval, further events would have followed accordingly.

11. The Appellant came to Court on 30.6.2015 well within the life of the select list dated 1.10.2014.

12. The writ petition was also disposed without a counter-affidavit and without noticing the pleadings in paragraph 8.7.

13. We therefore modify the order under appeal by directing a final decision by the State authorities whether to grant approval or not to grant approval for the appointments in pursuance of the request by the Chief Executive Officer, Zila Panchayat, Raigarh, dated 12.11.2014, in accordance with law.

14. At the risk of reiteration, we seek to clarify that our order cannot be construed as any direction much less any expression or opinion or even an observation either ways. The mandamus issued by us is only for taking an appropriate decision to the satisfaction of the Respondents in accordance with law keeping all aspects in mind because of which they may have imposed the condition for grant of approval.

15. Let such consideration be done and final orders be passed if not already done, within a maximum period of three months from the date of receipt and/or production of a copy of this order before Respondent No.3.

16. It is trite law that any order passed in a service matter applies to all similarly situated and they are not required to obtain individual orders from the Court. Depending on the final decision that the authorities may take, it will apply to all similarly situated.

17. The appeal is allowed to the extent indicated.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge