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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1743 of 2015**

- Gayatri Sahu S/o Ganesh Ram Sahu Aged About 23 years Earlier Posted As Dark Room Assistant R/o C/o Paras Ram Sahu Near Gouri Hospital, Ganjmandi Road, Fafadih, Raipur Post Office Fafadih, Police Station & Tahsil Raipur District Raipur Chhattisgarh

---- **Petitioner****Versus**

1. State of Chhattisgarh Through Its Secretary, Department of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. The Director Medical Education (DME) Raipur District Raipur Chhattisgarh
3. The Dean Pt. Jawahar Lal Nehru Memorial Medical College, Raipur Chhattisgarh
4. Deputy Director, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur Chhattisgarh

---- **Respondents****And****WPS No. 1747 Of 2015**

- Dilip Singh Kanwar S/o Mahadev Singh Aged About 23 years Earlier Posted As Dark Room Assistant R/o Village Karrapali, PO Umroli, PS & Tahsil Kartala, District Korba Chhattisgarh

---- **Petitioner****Vs**

1. State of Chhattisgarh Through Its Secretary, Department of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. The Director Medical Education (DME) Raipur District Raipur Chhattisgarh
3. The Dean Pt. Jawahar Lal Nehru Memorial Medical College, Raipur Chhattisgarh
4. Deputy Director, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur Chhattisgarh

---- **Respondents**

And

WPS No. 1761 Of 2015

- Kartikeshwar Lahre S/o Badri Prasad Lahre Aged About 29 years Earlier Posted As Radiographer, R/o Pamgarh, Near Tahsil Office, PS & Tahsil Pamgarh, District Jangir- Champa (Chhattisgarh)

---- Petitioner

Vs

1. State of Chhattisgarh Through Its Secretary, Department of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. The Director Medical Education (DME) Raipur District Raipur Chhattisgarh
3. The Dean Pt. Jawahar Lal Nehru Memorial Medical College, Raipur Chhattisgarh
4. Deputy Director, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur Chhattisgarh

---- Respondents

For Petitioners	:	Shri Mateen Siddiqui, Advocate
For Respondent/State	:	Shri PK Bhaduri, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

07/05/2015

1. Petitioners have assailed the legality and validity of the order dated 14-2-2014, passed by the Dean, Medical College, Raipur (for short 'the Dean'), cancelling the advertisement dated 01-10-12 for recruitment of Radiographer and Dark Room Assistant.
2. By the subject advertisement, the Medical College Raipur had invited applications for filling up the post of Radiographer and Dark Room Assistant. The petitioners participated in the selection process and were offered letter of appointment, however, during this period complaints were

received alleging large scale irregularities in the selection process. For examining the complaints, the Dean constituted three members committee, who conducted the enquiry and submitted a report on 13-1-2014 (Annexure P-10), *inter alia* finding that in the advertisement there was no mention that selection process would include interview of the candidates, however, candidates were interviewed. It was also found that for a period of about two months, the candidates were interviewed in the ratio of 1:15 but subsequently, this was increased to the ratio of 1:26. The committee found several other discrepancies like awarding of inflated or incorrect marks for experience, allotting different marks for the qualification and lastly the marks awarded during interview would indicate that the marks for interview has been overwritten or changed on several occasions. The enquiry team thus found all pervasive illegalities conducted during the selection process.

3. Learned counsel for the petitioners would submit that the petitioners were not heard before cancelling the advertisement, which was necessary because the petitioners had already been offered letter of appointment. He would also submit that it is not a case where the illegalities were all pervasive, therefore, the authorities should have made effort to separate the grain and the chaff instead of cancelling the advertisement and the appointments which do not suffer from any infirmity, should have been saved.
4. Shri Bhaduri, learned State counsel would submit that the very fact that holding of interview was not prescribed as a part of the selection process and yet the candidates were interviewed, is by itself such a irregularity which vitiates the entire selection process, therefore, no interference is called for. He would refer to the judgment of the Supreme Court in **District Collector & Chairman, Vizianagaram Social Welfare Residential School Society,**

Vizianagaram and Another Vs. M. Tripura Sundari Devi¹.

5. In the case of M. Tripura Sundari Devi (*supra*), the Supreme Court was dealing with a case where the candidate was offered appointment, but was not allowed to join duties because in the meantime a mistake in the selection process was discovered and the candidate was not found suitable for appointment. The Supreme Court refused to interfere by observing that there is nothing wrong in the action taken by the authorities in not allowing the candidate to resume duties. In the said case, the following has been observed in para 6:-

“6. It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact.”

6. In the case in hand also, the advertisement did not mention that the selection process would include interview of the candidates. As a matter of fact, clause-19 of the advertisement has bifurcated the marks to be awarded to the candidates by the selection committee. Thus, except for awarding of marks on these heads, no other method of selection was permissible in the teeth of clause-19 of the advertisement.
7. For the foregoing, since selection committee had traveled beyond the prescribed norms for selection, the illegality is such which cannot be cured and the enquiry committee has rightly found that the selection process is

¹ (1990) 3 SCC 655

vitiated. Cancellation of advertisement is, therefore, fully justified.

8. No interference in the impugned order is called for. Accordingly, the writ petitions, sans substance, deserve to be and are hereby dismissed.

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