

HIGH COURT OF CHHATTISGARH, BILASPUR

W. P. (PIL) No. 16 of 2015

- Dr. Lakhan Singh S/o Shri Nirup Singh, aged about 43 years, Occupation Service, Posted as Associate Professor in Chhattisgarh Institute of Medical Sciences, Bilaspur, District Bilaspur C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through-The Principal Secretary, Health and Family Welfare Department, Mahanadi Bhawan, Raipur (C.G.)
2. The Guru Ghasi Das Central University Bilaspur, through The Registrar, Koni, Bilaspur, District Bilaspur C.G.
3. Director, Medical Education, Chhattisgarh, Raipur, Distt. Raipur, (C.G.)
4. Dr. (Smt.) Yasmin Khan, M.D. Medicine, W/o Irfan Ahmad Khan, Aged about 46 years, Posted as Reader (Medicine), Chhattisgarh Institute of Medical Science, Bilaspur (C.G.)
5. Dean, Chhattisgarh Institute of Medical Sciences, Bilaspur, District Bilaspur, C.G.

---- Respondents

For Petitioner	: Mr.Rakesh Pandey with Mr.Dashrath Prajapati, Advocate
For Respondents No.1 to 3:	Mr.A.S.Kachhawaha, Additional Advocate General
For Respondent No.4	: None present
For Respondent No.5	: None present.

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board

21/04/2015

T.P.Sharma, J.:-

1. By this writ petition in the nature of PIL in service matter, the petitioner has prayed for issuance of writ in the nature of quo warranto and has prayed for following substantial relief:-

“This Hon’ble Court may kindly be pleased to issue a writ in nature of quo warranto directing the respondent no.4 to disclose the authority under which she is holding the post of Reader/Associate Professor in

Chhattisgarh Institute of Medical Sciences Bilaspur, and further be pleased to remove the respondent no.4 from post of Reader and directing her to not usurp the said post, in the ends of justice.”

2. As per petition, respondent No.4 does not possess the requisite qualification for the post of Reader (Medicine), but she is continuing the office.
3. As directed for filing sought response, respondents No.1 to 3 have challenged the maintainability of the writ petition in the nature of PIL in service matter and also objected that previously the petitioner has filed the writ petition being W.P. (S) No.134 of 2015 for his seniority that too against respondent No.4, which shows that this is not the PIL, but the case of vindication against respondent No.4.
4. We have heard learned counsel for the parties.
5. Learned counsel for the petitioner submits that in the case of issuance of writ in the nature of quo warranto, the doctrine of *res judicata* is not applicable. Learned counsel placed reliance in the matter of **Krishna Hare Gaur v. Vinod Kumar Tyagi & Ors** reported in **AIR 2015 SC 1248** in which the Supreme Court has held that in case the appointment of Head-master is made dehors the Rules, on the basis of bogus certificate, the same is a nullity and doctrine of *res judicata* would not be attracted. Learned counsel further placed reliance in the matter of **Central Electricity Supply Utility of Odisha v. Dhobei Sahoo and others and other connected matter** reported in **(2014) 1 SCC 161** in which the Supreme Court has held that writ of quo warranto is maintainable in service matter and doctrine of locus standi will not affect in the maintainability of writ.
6. As per order dated 30.3.2015 passed by learned Single Judge, in which the present petitioner and respondent No.4 were parties, the petitioner has challenged the issuance of gradation list showing him as junior to respondent No.4, which has been dismissed by learned writ Court. After decision in said writ petition, the petitioner has filed this writ petition in the nature of PIL along with different contradictory annexures.
7. Filing of repeated writ petition against respondent No.4 shows that this is the case of personal vindication by the petitioner against respondent No.4, which is not permissible and it would not be appropriate to issue writ of any nature on the basis of said writ petition for personal vindication.
8. Consequently, the writ petition (PIL) stands disposed of with the following

directions:-

- (i) Authorities of respondents No.1 to 3 are required to examine the matter minutely.
- (ii) In case of any de hors the Rules, they are required to take appropriate steps immediately to save the authorities from any illegal appointment and its continuance.

9. No order as to costs.

JUDGE

JUDGE

B/-