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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 553 of 2015**

Pankaj Bhange S/o Shri Dushyant Rao Bhange, aged about 39 years, R/o Near Jhulelal Kirana Stores, Kasturba Nagar Bilaspur, Present Address: Kasturba Nagar Jarhabhata Bilaspur, P.S. Civil Lines, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through Secretary, Panchayat Evam Gramin Vikas Vibhag Mantralay, DKS Bhawan, Raipur, Chhattisgarh.
2. Director, Panchayat Evam Samaj Seva Mantralaya, DKS Bhavan, Raipur, Chhattisgarh.
3. Jila Panchayat, Bilaspur Through its Chief Executive Officer, Jila Panchayat Bilaspur, Chhattisgarh.
4. Janpad Panchayat Bilha, Through its Chief Executive Officer, Janpad Panchayat Bilha, District Bilaspur, Chhattisgarh.
5. Ku. Jyoti Kerketta D/o Shri R.Kerketta, aged about 26 years, R/o Quarter No. 691/2, New Loco Colony, Torva P.S. Torva, Bilaspur Tahsil and District Bilaspur, Chhattisgarh.
6. Rakesh Kumar Jogi S/o Bhaiyalal Jogi, aged about 25 years, R/o Majhavapara, Jarhabhata, Bilaspur P.S. Civil Lines, Bilaspur Tahsil and District Bilaspur, Chhattisgarh.
7. Ku. Anita Singh D/o Dhannu Singh, aged about 24 years, R/o Quarter No. C/53 Police Colony Tifra, Bilaspur P.S. Civil Lines, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.
8. Chitrakant Yadav S/o Shri Nohar Lal Yadav, aged about 35 years, R/o Through Rita Kirana Stores, Near Delhi Public School, Tifra Bilaspur, P.S. Civil Lines, Bilaspur, Tahsil and District Bilaspur Chhattisgarh.
9. Satish Valare S/o Shri D.S.Valare, aged about 20 years, R/o Quarter No. C/59, Police Colony, Tifra Bilaspur, P.S. Civil Lines, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh.

10. Kand Kumar Kamalsen S/o Shri Anjor Das, aged about 40 years, R/o village & Post Singhari, P.S. Ratanpur, Tahsil and District Bilaspur, Chhattisgarh.

(Respondent No. 5 to 10 are Petitioners in Writ Petition (S) No. 2186 of 2011)

---- Respondents

For Appellant	:	Shri Alok Bakshi and Shri Dashrath Prajapati, Advocates.
For Respondents/State	:	Shri UNS Deo, Government Advocate.

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

Judgment on Board

Per Navin Sinha, Chief Justice

24/11/2015

1. The present appeal arises from order dated 31.8.2015 preferred by Petitioner No. 7 in Writ Petition (S) No. 2186 of 2011. The Learned Single Judge held that since the Appellant failed to appear between 4th to 6th February, 2011 the scheduled dates fixed for counselling, he had lost the right to have his candidature considered.
2. Learned Counsel for the Appellant submits that from the list of appointments, it appears that certain other persons who appeared after the 6th of February have been considered and appointed.
3. Learned Counsel for the State submitted that if appointment order has been issued on 7.2.2011 to certain candidates, it does not automatically lead to the conclusion that their counselling was held after the last date. This was a question of fact which had to be specifically pleaded and asserted in the writ petition. The pleadings are completely wanting.
4. We have considered the submissions and are of the considered opinion that the order of the Learned Single Judge calls for no interference at all. The letter dated 29.1.2011 calling the Appellant for counselling specifically stated

that he was required to appear between 4.2.2011 to 6.2.2011 alongwith necessary documents. In the event of his failure to do so, his candidature shall be deemed to have been cancelled and he shall not be considered for appointment.

5. In (2006) 12 SCC 561 (State of Bihar v. Amrendra Kumar Mishra) the Respondent was declared successful for appointment on the post of Livestock Attendant. The appointment letter was sent asking him to join within 15 days. He failed to do so and thereafter approached the authorities, *inter alia* taking the plea that he had not received the appointment letter sent by post. It was held that in the aforementioned situation having failed to join within the stipulated period, he did not have any legal right to be appointed. The plea of postal delay was also not accepted holding that even if the appointment letter was sent by ordinary post, a statutory presumption arises and even otherwise postal delay cannot be a ground to take a sympathetic view of the matter. Even though the Appellant has not placed relevant pleadings in support of the assertion that persons were counselled after 6th of February, that is of no avail to him as no mandamus can be issued under Article 226 for perpetuating any illegality.

6. The appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE