

IN THE HIGH COURT OF CHHATTISGARH, BILASPUR

WP (S) No. 2444 of 2013

1. Smt. Ritu Tiwari, W/o Laxmi Narayan Tiwari, aged About 35 years, R/o Rajapara Champa, Civil P.S. & Revenue Distt Janjgir Champa (C.G.)
2. Smt. Bhamini Kurre, W/o Virendra Kurre, Aged About 31 Years, R/o Ward No.15, Kotadabri, Champa, Civil P.S. & Revenue Distt Janjgir Champa (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through The Secretary, Department of Urban Administration, D.K.S. Bhawan, Raipur, Dist Raipur (C.G.)
2. The Deputy Director, Urban Administration and Vikas Vibhag, Raipur, Dist Raipur (C.G.)
3. The District Education Officer, Distt Janjgir Champa (C.G.)
4. The Chief Municipal Officer, Nagar Palika Parishad, Champa, Distt. Janjgir Champa (C.G.)
5. The Collector, Distt. Janjgir Champa (C.G.)

---- Respondents

For Petitioners	Shri Hanuman Prasad Agrawal, Advocate
For Respondent/State	Shri Shashank Thakur, GA
For respondent No.4	Shri Sumesh Bajaj, Advocate

Hon'ble Shri Justice Prashant Mishra

Order On Board

27/04/2015

With the consent of the learned counsel for the parties, the matter is heard finally.

1. The petitioners have preferred this writ petition for setting aside the letter dated 09.04.2013 issued by respondent No.4, dismissing petitioners' representation seeking appointment on the post of Assistant Teacher (Nagriya Nikay).

2. Pursuant to advertisement issued on 29.07.2011, the petitioners participated in the selection process for the said post and their names were included in the select list, however, appointment orders were not issued in favour of petitioners on the ground that they have not cleared the Teacher Eligibility Test Examination (henceforth TET Examination), which is a necessary qualification under the provisions of Right to Free and Compulsory Education Act, 2009 and that in the meeting of the President-in-Council held on 23.01.2012, the select list was not approved by the Municipal Council, Champa.
3. Learned counsel for the petitioners would submit that the advertisement was issued in July, 2011, therefore, the letter issued by the Department of Urban Administration and Development on 11.09.2012 making the TET qualification compulsory would not apply to the subject advertisement. He would also submit that as per amendment in the Chhattisgarh Nagar Palika Shiksha Karmi (Recruitment and Conditions of Service) Rules, 2008 w.e.f. 20.07.2011, the Municipal Council, i.e. the CMO should have issued the appointment order within 15 days from the date of selection without waiting for the decision of the President-in-Council, therefore, the petitioners are entitled for appointment because, the meeting of the President-in-Council was not held within 15 days from the date of declaration of select list.
4. It is settled law that mere inclusion of name of a candidate in the select list does not confer any right of appointment. Similarly, once the select list has not been approved by the competent committee of the Municipal Council i.e. the President-in-Council, the select list is no longer in existence. Therefore, a writ of mandamus cannot be issued to get a select list implemented, which has not been approved by the

President-in-Council of the concerned Municipal Council. The petitioners have not assailed the resolution of the Council by preferring an appeal or even in this writ petition.

5. Moreover, the essentiality of passing TET Examination was already in the statute by way of enactment of Act, 2009 and as such, the said requirement was the requirement of law when the subject advertisement was issued in July, 2011. Merely because a letter was subsequently issued by the State Government bringing into notice of the recruiting agency about the necessity of passing TET Examination by all the candidates seeking recruitment on the post of Assistant Teacher (Nagriya Nikay), it cannot be said that the said requirement came into force from the date of issuance of letter by the State Government.
6. For all the above reasons, this Court is of the opinion that the writ petition has no substance and it deserves to be and is hereby dismissed.
7. There shall be no order as to costs.

JUDGE