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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 6663 of 2009**

Girvar Singh Rathore son of Shri Laxman Singh Rathore, aged about 52 years, Upper Division Teacher, Presently posted at Govt. Middle School, Dongripara, Tehsil Lormi, District Bilaspur (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, School Education Department, DKS Bhawan, Raipur (CG).
2. Rajeev Gandhi Shiksha Mission Through The Mission Director, Rajeev Gandhi Siksha Mission, Raipur (CG).
3. Rajeev Gandhi Shiksha Mission Through The Mission Director, Rajeev Gandhi Siksha Mission, Bilaspur (CG).
4. District Project Coordinator, Rajeev Gandhi Shiksha Mission, Bilaspur (CG).
5. Ashok Kumar S/o Not Known, Shiksha Karmi Grade-II, Govt. Middle School Hardi Bandh, Block Lormi, Distt.-Bilaspur (CG), Presently Appointed As Cluster Coordinator At Resource Centre Jhajhpuri, Tahsil Lormi, Distt.-Bilaspur (CG).

---- Respondents

For Petitioner	Shri PP Sahu and Shri RK Pali, Advocates.
For Respondent No.1	Ms. Smita Ghai, Panel Lawyer.
For Respondent No.2to4	Shri BL Sahu, Advocate.
For Respondent No.5	Shri Vimal Tondey, Advocate.

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****10/05/2016**

1. The petitioner through the present writ petition has challenged the appointment of respondent No.5 on the post of Cluster Coordinator at resource Centre, Jhanjhpuri, Tehsil Lormi, District Bilaspur.
2. According to learned counsel appearing for the Petitioner, the State Govt. on 19.05.2009 had issued an advertisement for filling up 152 posts of Cluster

Coordinator of which, 19 posts were earmarked for Lormi Block. In Clause-A of the said advertisement it was specifically held that the essential eligibility criteria was that the applicant should have been a regular government teacher/should be Shiksha Karmi Grade-II. Referring to sub-clause 5 of Clause-B of the advertisement he further submits that the claim of the Shiksha Karmis would be considered in the event if there are no eligible regular government teacher available. Therefore, according to the Petitioner, since the Respondent No.5 was a Shiksha Karmi Grade-II and the Petitioner being a regular government teacher, his claim ought to have been given preferential treatment and granting appointment to the Respondent No.5 was bad in law and contrary to the advertisement itself.

3. Learned counsel appearing for the respondents No.2 to 4, however, submits that the authorities concerned on 15.06.2009 issued an order whereby the essential eligibility criteria in the advertisement dated 15.09.2009 was to be read as Shiksha Karmies would also be considered along with government teachers based on their merits. It was also ordered that both the regular government teachers and the Shiksha Karmies would be eligible for participating in the selection process and the meritorious candidates from amongst the two categories would be considered for appointment on the post of Cluster Coordinator.
4. The said order dated 15.06.2009 has been issued pursuant to circular dated 13.02.2009 wherein the eligibility criteria for appointment to the post of Cluster Coordinator had been revised by the State Government. The said order dated 13.02.2009 has already been put to test before the High Court in a batch of writ petitions led by Writ Petition (S) No. 2913 of 2009 and which stand adjudicated upon on 19.8.2009 wherein the issuance of the circular had been upheld by the High Court while the writ petitions were dismissed. Therefore, the order dated 15.06.2009 issued subsequent to the circular dated 13.02.2009 cannot be faulted at and there is no illegality in issuance of the said order.

5. Counsel for Respondent No.5 makes the submission that he adopts the arguments advanced by the Respondents No. 2 to 4.
6. Having perused the records placed before this Court, it is evidently clear that as per Clause-B of the said advertisement, the recruitment for the post of Cluster Coordinator was for a maximum period of five years which in the instant case has already been lapsed, and as such, the writ petition from this point of view has become academic in nature.
7. Be that as it may, it is trite law that if a case has become infructuous on the facts of the case and the question remains to be decided for academic purpose, it is not necessary to examine the case. (See *Basheshar Nath Vs. Commissioner of Income-tax, Delhi and Rajsthan and Another*¹, *Dhartipakar Madan Lal Agrawal Vs. Rajiv Gandhi*², *Secretary, Ministry of Information & Broadcasting, Govt. of India and Others Vs. Cricket Association of Bengal and Others*³, *State of Manipur and Others Vs. Chandam Manihar Singh*⁴, *Amit Das Vs. State of Bihar*⁵ and *Prakash Singh Badal and another Vs. State of Punjab and Others*⁶).
8. Even otherwise a perusal of record would show that the State Government on 15.06.2009 had already issued an order amending Clause in the advertisement reading and mentioning it to be read as eligibility criteria in the advertisement that the regular government teachers as well as Siksha Karmi Grade-II to be eligible for participating in the selection process. The said amendment brought into by the State Government has not been questioned by the Petitioner, neither has the Petitioner rebutted the said contentions of the Respondents by filing any rejoinder to the said averment. In the absence of any challenge to the said modification made in the eligibility criteria in the advertisement, this Court is of the opinion that

1 AIR 1959 SC 149
 2 1987 (Supp) SCC 93
 3 1995 (2) SCC 161
 4 1999 (7) SCC 503
 5 2001 (7) SCC 657
 6 2007 (1) SCC 1

the Petitioners have not been able to make out a good case for interfering with the selection of Respondent No.5, particularly for the reason that Respondents No. 2 to 4 in their reply have categorically mentioned that the Respondent No.5 had obtained highest marks in concerned Cluster Centre and therefore, the case of Respondent No.5 was considered ahead of the Petitioner though Respondent No.5 was a Siksha Karmi. To this averment also, the Petitioner has not rebutted in his reply for disputing the same.

9. For the foregoing reasons, the writ petition fails and is accordingly dismissed. No order as to costs.

Sd/-
(P.Sam Koshy)
JUDGE