

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2298 of 2013**

Bharat Lal Panik S/o Yuvraj Panik Aged About 27 Years R/o C/o C.N.
Panik Omnagar, Jarhabhata, Police Sttion Civil Lines, Bilaspur C.G.

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

1. State Of C.G. through Its Secretary, Higher Education Department
Naya Raipur C.G.
2. C.G. Public Service Commission, Through Its Secretary Raipur C.G.

-----**Respondents**

For Petitioner:	Shri Parag Kotecha, Advocate.
For Respondent No.1/State:	Shri UNS. Deo, Government Advocate.
For Respondent No.2:	Shri BD. Guru, Advocate.

Single Bench: Hon'ble Shri P. Sam Koshy, J
Order On Board

14.3.2016

1. The challenge to the present Writ Petition is the advertisement dated 29.5.2013, whereby the Petitioner had challenged the conditions prescribed by the Respondent/State for the appointment to the post of Librarian.
2. The grievance of the Petitioner was that the advertisement dated 29.5.2013 has been issued contrary to the Chhattisgarh Education Education Service (Collegiate Branch) Recruitment Rules, 1990 (henceforth referred to as 'the Rules') and also Regulation of UGC of the year 2009. Pending the Petition, the State Government has filed its reply making categorical statement that the Rules applicable for the State of Chhattisgarh had been subsequently amended w.e.f 14.11.2014 and the conditions stipulated in the advertisement

was in accordance with the amended Rules and therefore, there is no illegality in the advertisement so issued by the Respondents, which is under challenge in the present Writ Petition.

3. Though the reply of the State Government had been filed as early as in the month of July, 2013, there has been no rejoinder filed by the Petitioner in this Writ Petition. Today, the Respondent counsel have again made a statement before this Court, on verification, that the recruitment process from the advertisement dated 29.5.2013 has already been completed and all the selected persons have already been granted appointment and they have also been posted at different places in the State.

4. In the present Writ Petition, the Petitioner had not tried to implead the selected candidates in whose favour a right has been accrued as a necessary party to the Writ Petition.

5. In the absence of the newly appointed candidates as Respondents to the present Writ Petition, the present Writ Petition in the present form would not be sustainable on account of non-joinder of necessary parties as the law in this regard is well settled that in the event the selection process having been completed and selected candidates having been granted appointment, any interference with the impugned advertisement will have an adverse impact on the right created in their favour.

6. The Supreme Court in (2008) 4 SCC 619 (Sadanand Halo and others v. Momtaz Ali Sheikh and others) has in paragraph – 63, in very categorical terms held that the selected candidates would become necessary parties on account of the fact that in the event the Writ Petitions are heard, without they being made a party, it may have an adverse affect if the Writ Petition is ultimately allowed. The Supreme Court has further reiterated its stand again

in one of the latest decisions in (2015) 3 SCC 177 (Kulwant Singh and others v. Daya Ram and others) holding that the candidates appearing in a competitive examination and being selected to an identifiable category, would be a necessary party if the said selection or the recruitment process is under challenge.

7. In the instant case, though the Writ Petition was filed at the time of advertisement stage, but the fact that subsequently the advertisement was acted upon and the recruitment was finalized and a large number of candidates have been found selected and have already been granted appointment but who have not been made a party in the present Writ Petition in spite of having knowledge regarding the recruitment process having completed by issuance of appointment orders in favour of the selected candidates, applying the ration laid down by the Supreme Court in the aforesaid two judgments, this Court is of the opinion that the present Writ Petition suffers from non-joinder of the parties and therefore deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE