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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1917 of 2013**

1. Avinash Thakur, S/o R.S. Thakur Aged About 24 Years Behind Jyoti Kirana Store, 27 Kholi Vikas Nagar, Police Station Civil Lines Bilaspur C.G.
2. Biharilal Patel S/o Pitambar Patel Aged About 24 Years Village Mandra Po Hirri, Thana Baramkela, Police Station Baramkela, Distt. Raigarh
3. Usha Lahare W/o Ashok Lahare Aged About 35 Years Ring Road No. 2, Near By Dubey Heart Care Hospital Shanti Nagar P.S. Civil Lines Bilaspur C.G.
4. Ramswarup Tiwari S/o Ramapati Tiwari Aged About 39 Years Rd-2 Anjani Vihar Colony, Near S.K. Shrivastava House Science College Eroad P.S. Sarkanda Bilaspur C.G.
5. Ravi Prakash Chandrakar S/o Gore Lal Chandrakar Aged About 26 Years Near Mukul School, Police Station Sarkanda, Distt. Bilaspur C.G.
6. Goverdhan Patel S/o Uddaw Prasad Patel Aged About 24 Years At Chikhali Post Madhopli Tahsil & Thana Sarangarh Distt. Raigarh
7. Khilesh Ghirtlahare S/o Saroj Kumar Ghirtlahare Aged About 36 Years Village Tingipur Purena, Post Paharia Police Station Baloda Distt. Janjgir Champa
8. Shweta Greene S/o V.C. Greene Aged About 37 Years Mig-li, C-244/16, R.K. Nagar, Thana Sarkanda, Distt. Bilaspur C.G.
9. Neelima Sharma D/o Pramod Sharma Aged About 42 Years Jabbal & Sons, Nehru Nagar, Police Station Civil Lines Bilaspur
10. Kundan Jha S/o Phooldenra Jha Aged About 23 Years Village Post & Thana Pali, Distt. Korba
11. Kameshwar Kumar Tamboli S/o Shartruhan Lal Tamboli Aged About 23 Years Village Post & Thana Pathariya Distt. Mungeli
12. Jyoti Rathia S/o J.P. Rathia, Aged About 23 Years Bajrang Chowk Bandhawapara, Police Station Sarkanda Distt. Bilaspur C.G.
13. Ramratan Sahu S/o Awadhram Sahu Aged About 34 Years Bangalipara-3 New Sarkanda, Thana Sarkanda, Distt. Bilaspur C.G.

---- Petitioners

Versus

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

---- Respondents

And

Writ Petition (S) No. 1785 of 2013

1. Pradeep Kumar Chandel, S/o S.R. Chandel Aged About 36 Years R/o Housing Board Colony Shajbahar, Thana Tikrapara, Dist Raipur, Cg
2. Durgesh Kumar Chandel S/o Ramkumar Kaushik Aged About 36 Years R/o Near Ganesh Chowk, Nehru Nagar, Thana Civil Lines, Bilaspur, Dist Bilaspur, Cg
3. Somkant Yadav S/o Lt Shri Premlal Yadav Aged About 41 Years R/o Saragтора, Post Sonasilly, Tah & Thana Pithora, Dist Mahasamund,c G

---- Petitioners

Vs

1. State Of Chhattisgarh throuth Its Secretary, Higher Education Deptt, Naya Raipur, Dist Raipur, Cg
2. C.G. Public Service Commission Throuth Its Secretary, Raipur, Dist Raipur, Cg

---- Respondents

And

Writ Petition (S) No. 1798 Of 2013

Ajay Kumar Soni, S/o Roop Chand Soni Aged About 33 Years Working As Shiksha Karmi Grade Iii, R/o Vill Bhoi Para, Boloda, Ps Boloda, Po Boloda, Distt Janjgir Champa, Cg

---- Petitioner

Vs

1. Chhattisgarh Public Service Commission & Anr. S/o Through The Secretary, C.G. Public Service Commission, Shankar Nagar Road, Raipur, Dist Raipur, Cg
2. Secretary C.G. Public Service Commission, Shankar Nagr Road, Raipur, Dist Raipur, Cg

-----Respondents

For Petitioners:	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 three Writ Petitions is the advertisement dated 29.5.2013, whereby the Petitioners had challenged the conditions prescribed by the Respondent/State for the appointment to the post of Librarian.

2. The grievance of the Petitioners 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 Petitioners in these Writ Petitions. 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 Petitions, the Petitioners in none of the Writ Petitions, have 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 Petitions 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 Petitions were 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

Priya