

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 1446 of 2017**

1. Kailashpati Pandey S/o Shri Vachaspati Pandey, aged about 37 years, R/o. Village Rumagara, Post Balco, District Korba (Chhattisgarh)
2. Sunil Kumar Das S/o Shri Premdas, aged about 43 years, posted as Vehicle Driver, Posted at Regional Office of Chief Medical and Health Officer, Korba, R/o. Gokulganj Sitamadi, Post Purana Bus Stand Korba, District Korba (Chhattisgarh)
3. Uttam Kumar Yadav (Rawat), S/o Panchram Yadav, aged about 38 years, Occupation Driver, Office of Chief Medical and Health Officer, District Hospital Korba, Tahsil and District Korba (Chhattisgarh)

**---- Petitioners****Versus**

1. State of Chhattisgarh through : the Secretary Department of Health, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Collector, Korba, District Korba, Chhattisgarh.
3. Chief Medical & Health Officer, Korba, District Korba, Chhattisgarh.

**---- Respondents**


---

|                      |   |                                                                 |
|----------------------|---|-----------------------------------------------------------------|
| For Petitioners      | : | Ms. Hammida Siddiqui along with Shri Raghvendra Verma, Advocate |
| For Respondent/State | : | Shri Adhiraj Surana, Dy. G.A.                                   |

---

**Hon'ble Shri Justice P. Sam Koshy****Order On Board****24/03/2017**

The challenge in the present writ petition is the order dated 11.08.2015 Annexure P-1 whereby the advertisement issued on 21.09.2012 has been ordered to be cancelled.

2. On perusal of the record reflects that there was a writ petition preferred by the petitioners i.e. WPS No. 3231 of 2013 wherein the discrepancies in the allotment of marks were questioned. The said writ petition got dismissed as withdrawn on 17.02.2016 with liberty to the petitioners to move afresh if cause of action survives or a fresh cause of action arises. Subsequently, another writ petition i.e. WPS No. 2904 of 2016 was filed which too was disposed of vide order dated 13.02.2017. In paragraph-3 of the said order, the Bench hearing the writ petition observed that "since the advertisement itself has been cancelled,

there is no cause of action for continuing the present writ petition.” It is thereafter the present writ petition has been filed.

3. In respect of the same selection, the petitioners on two earlier occasions had filed two separate writ petitions and both the petitions were either disposed of or dismissed as withdrawn. No strong case is made out for entertaining the present writ petition which is the third round of litigation challenging the order dated 11.08.2015 whereby the advertisement earlier issued stood cancelled.

4. The law in this regard is well settled that unless an order of appointment is issued in favour of a person, no indefeasible or vested right is created in his favour. The issuance of advertisement and the cancellation of the same is the prerogative of the respondents. The only thing which can be looked into is whether the cancellation of the advertisement was with a mala fide intention? The petitioners have not raised any ground of mala fides in the issuance of the impugned order. In the absence of which this Court is not inclined to entertain the present writ petition.

5. So far as the relief of not granting regularization is concerned, the granting of regularization is within the domain of the State Government. It is the State Govt. who considers whether a person is suitable for regularization or not for which the petitioner can approach the State Government to ventilate his grievance. The writ court in exercise of its writ jurisdiction under Article 226 of the Constitution of India would not have the power for ordering the benefit of regularization to the petitioners. The law in respect of regularization is no longer *res integra* in the light of the authoritative pronouncement of the Supreme Court in the case of the Secretary, State of Karnataka & Others v. Uma Devi & Others reported in (2006) 4 SCC 1 and the subsequent decisions in this field.

6. Thus, the present writ petition being devoid of merits, deserves to be and is accordingly dismissed.

Sd/-  
(P. Sam Koshy)  
JUDGE