

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CONT No. 565 of 2017

Nilofer Khan D/o Abdul Kalam Khan, Aged About 32 Years Post Lecturer (Panchayat), Posted At Government Higher Secondary School Kandul, Block Gunderdehi, District Balod, R/o Plot No. 6, Beside St. Xaviers School Kripal Nagar, Kokha Bhilai, District Durg, Chhattigarh.

---- Petitioner

Versus

Rajendra Kumar Katara Chief Executive Officer, District Panchayat Balod, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri Praveen Dhurandhar, Advocate
For Respondent	:	Shri Chandresh Shrivastava, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/11/2017

Heard.

1. Additional affidavit has been filed in this case to explain the delay by submitting that various correspondences were made and certain information were sought from the petitioner particularly whether the petitioner had taken prior permission of the department before participating in the process of selection. It was for this reason, it is argued that some delay occurred in taking decision in the matter for which the respondents tenders unconditional apology.
2. I find that there was some delay in taking decision, however, for reasons which have been stated in the reply as well as in the additional affidavit, I am inclined to condone the delay in taking decision.
3. Learned counsel for the petitioner would submit that the respondent has decided the case of the petitioner without duly examining the case of the petitioner in the light of the order passed by the Division Bench of this

Court in Writ Appeal No.32 of 2015 and connected appeals and subsequent circular issued by the State Government on 23.4.2016.

4. Learned counsel appearing for the respondent would submit that the decision of the Division Bench was in relation to those candidates who were, while continuing in service, had obtained permission and without resigning, they were allowed to participate in the process of selection and finally selected on the higher post. The case of the petitioner is different because as per the order dated 15.3.2017, the petitioner had not taken prior permission. This issue was neither raised nor decided.
5. In view of the above, I am of the opinion that the respondents have taken decision in the matter which cannot be said to be an act of flouting the order or willful disobedience. Irrespective of the merits of the decision taken by the respondent, I do not find it to be a case of willful disobedience of the order of the Court. Therefore, I am inclined to dispose off the matter, however, with liberty to the petitioner to challenge order dated 16.10.2017 (Annexur AR-3) on its own merits in a separately constituted petition.
6. Rule is accordingly discharged.

Sd/-
(Manindra Mohan Shrivastava)
Judge