

**IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH**

HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 1984 OF 2017

Between:

B.K.N. Sreenivasulu

....Petitioner

A n d

The Director, Institute of Banking Personnel Selection (IBPS)

....Respondent

DATE OF ORDER: 03.02.2017



HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION NO. 1984 OF 2017****ORDER:**

Petitioner is a Scale -I Officer of Allahabad Bank having experience of 6 ½ years. In response to recruitment notification issued by the Institute of Banking Personnel Selection (IBPS) dated 9.9.2016, the petitioner applied to the post of Scale-III level (Senior Manager) and the qualifying examination was conducted in response to the notification. The results of the qualifying examination were declared on 20th December 2016 and the petitioner passed in the qualifying examination. By call letter dated 07.1.2017, the petitioner was asked to appear for interview before the interviewing authority on 17.1.2017. The requirement to appear for interview was furnishing 'no objection certificate' from the present employer. As the employer did not give him 'no objection certificate', the petitioner could not appear before the interviewing board on the date fixed for the interview on 17.1.2017 and filed the present Writ Petition.

2. When the matter was taken up, as the learned counsel appearing for first respondent (IBPS) raised objection on maintainability of the Writ Petition and sought time for filing counter and since the date fixed for interview was over time sought was granted.

3. Counter is filed on behalf of first respondent.

4. Learned counsel for petitioner submits that the employer cannot refuse to grant permission to participate in any other

selections. Petitioner has a right to advance his service prospectus and get into better avenues of employment. The post notified by the first respondent is higher grade post than the post held by the petitioner and therefore, he would have better avenues in his life. The employer could not have refused to grant 'no objection certification' and the action of the employer in not granting 'no objection certificate' or passing orders on the application filed by the petitioner amounts to arbitrary exercise of power. He would submit that submission of 'no objection certificate' is only a technical lapse and on that ground the first respondent could not have refused to permit the petitioner to participate in the interview, such action of the first respondent amounts to depriving the petitioner his right to secure public employment with better avenues and violated the fundamental right guaranteed to the petitioner. In support of his submission that on technical objection refusal by the first respondent to participate in the interview was erroneous, learned counsel placed reliance on the decision of Allahabad High Court in W.A.No. 4067 of 2014 dated 2.5.2014.

5. Though a specific objection is raised on the maintainability of Writ Petition against the respondents, learned counsel for respondents Dr. K. Lakshmi Narasimha also drawn my attention to the notification issued by the first respondent on 9.9.2016, particularly the clause J (x) and contends that the documents that are required to be produced by the candidate at the time of interview are mentioned. Therefore, he submits that the advertisement itself puts on notice on the candidates that they must obtain 'no objection certificate' from their employer before

they participate in the interview. He would further submit that the petitioner ought to have been alert in applying for 'no objection certificate' from the employer after results were announced on 20.12.2016 and the petitioner could not have waited till last minute and rushed to this Court after the interview date was over. He would submit that there was no illegality committed by the respondents warranting interference by this Court. He would further submit that in fact the interviews were already over and there is no scope of conducting further selections at this stage.

6. Notification dated 9.9.2016 deals with all aspects of recruitment of various posts notified. Clause J of the said notification with sub-heading 'List of documents to be produced at the time of interview/joining deals with various documents required to be produced. Under the said sub-heading Clause (x) deals with the persons who were already employed in Government/quasi government offices/Public Sector Undertakings (including Nationalized Banks and Financial Institutions) and requires that they must obtain 'no objection certificate' from their employer at the time of interview. Thus petitioner ought to have taken immediate steps to apply for 'no objection certificate' soon after he decided to apply for the post notified. At least the petitioner could have been alert and applied for 'no objection certificate' immediately after the results were announced on 20.12.2016. No valid explanation is furnished by the petitioner for not applying for the 'no objection certificate' till the call letter was issued. It is not the case of the petitioner that even after the results were announced, he was not certain of getting interview

call letter. Once the result of the examination was announced on 20th December 2016, the petitioner is clearly aware of receiving call letter and he would have very limited time to participate in the interview once the call letter is issued. Thus, I do not see any illegality in the procedure followed by the respondents. Since one of the pre-condition to participate in the interview is production of 'no objection certificate', no exception can be made in case of the petitioner, more particularly, having regard to the facts noted above. The decision of Allahabad High Court in W.A.No. 4067 of 2014 dated 2.5.2014, do not come to the rescue of the petitioner. Since the petitioner had sufficient time for obtaining 'no objection certificate', even if he had a grievance against employer, he could have invoked the jurisdiction of this Court against his employer well in advance to grant 'no objection certificate' to him. In the instant case, the issue is only confined to the action of the respondents in not allowing the petitioner to participate in selection on the ground that he does not have 'no objection certificate' granted by the employer.

7. Having regard to these peculiar facts, the issue of maintainability of Writ Petition is not gone into since this Court *prima facie* found that the action of the respondents in not permitting the petitioner to participate in the selection without 'no objection certificate' from present employer is not illegal.

8. For the reasons noted above, I do not see any illegality committed by the respondents warranting interference by this Court.

9. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

P. NAVEEN RAO, J

Date: 03.02.2017
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