

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 7035 OF 2010**

Kaleshar Ram Lahre, aged about 37 years R/o Shri Bhaiya Ram Lahre, R/o Village Daheriya, Tahsil Baloda, District Janjgir Champa (CG).

...Petitioner(s)

Versus

1. State of Chhattisgarh, through Panchayat and Social Welfare Department, DKS Bhawan, Raipur (CG).
2. Chief Executive Officer, Jila Panchayat, Korba (CG).

... Respondent(s)

For Petitioner	:	Shri Parag Kotecha and Shri Shalveer Tiwari, Advocates.
For Respondent-State	:	Shri Mazid Ali, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11.07.2018

1. The challenge on the part of the petitioner in the present petition is to the inaction on the part of respondents in concluding the recruitment process so far as filling up the post of Shiksha Karmi Grade-I from the advertisement published in the year, 2009 is concerned.
2. Learned counsel for the petitioner submits that the petitioner has applied for the post of Shiksha Karmi Grade-I in Geography subject in the advertisement (Annexure P/1). However, though the petitioner appears in the select list, but except for the Geography subject, the respondents had filled up all the other posts advertised from the same advertisement by issuing order of appointment to the respective selected candidates.
3. A perusal of record would show that the respondents have come up with a stand that the post of Shiksha Karmi Grade-I (Geography)

was otherwise filled up on regular basis made by the department and as such there were no vacancy available and therefore they had taken a decision not to further proceed with filling up of the post from the advertisement published in the year, 2009 so far as Geography subject is concerned and that was the reason why the petitioner could not be granted order of appointment.

4. The reason assigned by the respondents in their reply so also that the documents enclosed along with the return finds logic in it and also the fact that since the petitioner was not issued with the order of appointment, no indefeasible right had been created in his favour only by virtue of his being placed at serial No.1 in the select list.
5. It would be relevant at this juncture to refer to the decision of the Supreme Court in case of Kulwinder Pal Singh and Another Vs. State of Punjab and Others, 2016 (6) SCC 532 wherein in paragraph 10 to 12 it has been held as under :

“10. It is fairly well-settled that merely because the name of a candidate finds place in the select list, it would not give him indefeasible right to get an appointment as well. The name of a candidate may appear in the merit list but he has no indefeasible right to an appointment (vide Food Corporation of India v. Bhanu Lodh (2005) 3 SCC 618; All India SC & ST Employees' Association & Anr. v. A. Arthur Jeen (2001) 6 SCC 380 and UPSC v. Gaurav Dwivedi (1999) 5 SCC 180.

11. This Court again in State of Orissa v. Rajkishore Nanda (2010) 6 SCC 777, held as under:

“14. A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for the purpose of appointment and by itself does not amount to selection or create a vested right to be

appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate.

16. A select list cannot be treated as a reservoir for the purpose of appointments, that vacancy can be filled up taking the names from that list as and when it is so required...”

12. In *Manoj Manu v. Union of India* 2013 (10) SCALE 204: (2013) 12 SCC 171, it was held that merely because the name of a candidate finds place in the select list, it would not give the candidate an indefeasible right to get an appointment as well. It is always open to the government not to fill up the vacancies, however such decision should not be arbitrary or unreasonable. Once the decision is found to be based on some valid reason, the court would not issue any mandamus to government to fill up the vacancies.”

Earlier a similar view has also been taken by the Supreme Court in the case of *U.P. Bhumi Sudhar Nigam Ltd. Vs. Shiv Narain Gupta* reported in 1994 Supp (2) SCC 541.

6. In the light of the aforesaid decision of the Supreme Court and also taking note of the fact that no order of appointment had been issued in favour of the petitioner and that the respondents have given the reasons for dropping the recruitment process of Shiksha Karmi Grade-I (Geography), this court is of the opinion that no case is made out by the petitioner calling for an issuance of writ to the respondents.
7. The writ petition accordingly being devoid of merit deserves to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge