

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3620 of 2011**

1. Sunita, aged about 22 years, D/o Budheshvaram, R/o Bazarpara, Kusmi, Tahsil Samri (Kusmi), District Sarguja, CG
2. Rajendra Lakda S/o Sitaram Lakda, aged about 32 years, R/o Village Devri, Post Jawaharnagar, 3 Thana Kusmi, Dist. Sarguja CG
3. Kahruram S/o Matruram, aged about 30 years, R/o Village Aamatoli, Post Madgudi, Thana & Tahsil Kusmi, Dist. Sarguja, CG
4. Harishanker S/o Ramdevram, aged about 22 years, R/o Village Rehda, Tahsil Kusmi, Dist. Sarguja, CG

---- Petitioners**Versus**

1. State of Chhattisgarh through its Secretary, Ministry of Panchayat Rural Development Department, DKS Bhawan, Raipur, CG
2. Chief Executive Officer, Janpad Panchayat, Kusmi, Distt. Sarguja, CG
3. The Collector, Sarguja, Ambikapur ,CG

---- Respondents

For Petitioner : Shri Parag Kotecha, Advocate

For Respondent/State : Shri S. P. Kale, Dy. Advocate General

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12.07.2018**

Challenge in the present writ petition is to the inaction on the part of the respondents in not issuing the order of appointment in favour of the petitioners on the post of Shiksha Karmi Grade-III in the recruitment

process which was initiated in the year 2011.

2. Perusal of the order sheet reflects that the petitioners, at the first date of hearing of this writ petition itself, had made a submission before the Court of an identical petition being already dismissed by the co-ordinate Bench of this Court. The petitioners have till date not been able to show as to whether that order passed by this Court dismissing the identical writ petition has been set aside by the appellate Court in a writ appeal or not. In the absence of the same, it has to be presumed that the writ appeal has also gone against the petitioners therein.

3. In the circumstances, this Court is forced to take the same analogy and dismiss the present writ petition as well. Moreover, what is also pertinent to take note is that no order of appointment was issued in favour of any of the petitioners. It is settled position of law that merely because the petitioners had participated in a recruitment process and even their names may have been reflected in the select list, that by itself would not given an indefeasible and enforceable right in favour of the petitioners for appointment. The view of this Court stands fortified from the decision of the Supreme Court in the case of **Kulwinder Pal Singh and Another v. State of Punjab and others** reported in (2016) 6 SCC 532 wherein the Supreme Court in paragraphs-10, 11 & 12 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.

4. The writ petition thus being devoid of merits deserves to be and is accordingly dismissed.

**Sd/-
P. Sam Koshy
Judge**