

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1012 of 2017

K. S. Shrey S/o Late K.L.Shrey, Aged About 58 Years R/o M.I.G.-33,
Sector-3, Pt. Deendayal Upadhyay Nagar, Raipur, District Raipur,
Chhattisgarh **---- Applicant**

Versus

State Of Chhattisgarh Through Economic Offences Wing, Raipur In
Front Of Jai Jawan Petrol Pump, G.E.Road, Raipur, District Raipur,
Chhattisgarh **---- Respondent**

For Applicant	:	Ms. Aditi Singhavi, Advocate.
For Respondent/State	:	Mr. Majid Ali, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/01/2018

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.24/2017 registered at police station – Economic Offences Wing, Raipur in front of Jai Jawan Petrol Pump, G.E. Road, Raipur, District Raipur (C.G.) for alleged commission of offence under Section 13(1)(e), 13(2) of the Prevention of Corruption Act, 1988.

2. Case of the prosecution is that the applicant was involved in the process of selection in the matter of selection to the post of Assistant Manager and it is alleged that by making selection illegally, appointment was granted to number of persons who were paid salary thereafter causing loss to the public exchequer and the applicant is one of the member of the selection committee responsible for making illegal selection and giving illegal appointment.

3. Learned counsel for the applicant would argue that the institution of criminal case is in complete disregard to the orders passed by the High Court and the Supreme Court which has upheld the process of selection.

4. Learned counsel for the applicant would argue that when selection was made and later on challenged, the Division Bench of the High Court in Writ Appeal held that the selection did not suffer from any infirmity of law. The State Government had filed a SLP in the Supreme Court which was also dismissed. It is only thereafter that now allegations are being leveled on the basis that the selection were illegal which does not have any standing. Learned counsel for the applicant would submit that present is a case of harassment of the applicant by the State authority who have lost the case up to the Supreme Court.

5. On the other hand, learned counsel for the State opposes prayer and submits that in the present case, the material so far collected during investigation shows that the selection procedure was illegal and in this manner, illegal appointment were given by way of selection and the applicant was one of the member of the selection committee by granting illegal appointment. The corporation had to pay huge amount of salary to the selected candidates and thus it suffered pecuniary loss because of the illegal act of the applicant. Therefore, a prima facie case under Section 13(1)(e), 13(2) of the Prevention of Corruption Act, 1988 is made out.

6. Having considered the submissions of learned counsel for the parties and perusing the case diary and the order passed by the High Court and this Court finds that the process of selection had come up under judicial scrutiny and in Writ Appeal No.433 of 2016 and connected writ appeals decided vide order dated 09.11.2016, the selection was held to be in accordance with law and not suffering from any illegality. The Selectees who were appointed as group 'A' employee were directed to be reinstated in service as it was found that they were wrongly terminated. The SLP was also dismissed.

7. In such a situation, initiation of criminal case against the applicant is based only on the ground that appointment were illegal. I do not find any specific material in the case diary to show that the applicant were found having taken bribe for making selection. Therefore, in this background, I am inclined to protect the applicant by grant of anticipatory bail, the application is allowed.

8. Accordingly, it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his

furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Rekha