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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.4775 of 2015**

Samant David S/o Daud Ram David, Aged About 37 Years R/o Shivanand Nagar, Sector 03, Block No. 12, Post Office W.R.S. Colony, Raipur Tahsil Raipur, Civil And Revenue District Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Higher Education Department, Government Of Chhattisgarh, Naya Raipur, Civil And Revenue District Raipur Chhattisgarh.
2. The Principal, Govt. M.V.P.G. College Mahasamund Civil And Revenue District Mahasamund Chhattisgarh.

---- Respondents**Writ Petition (S) No.5405 of 2016**

Yuvraj Kumar Chandra S/o Shri Ratiram Chandra, Aged About 40 Years R/o Village Thuthi, Post Office Thathari, Police Staiton And Tahsil Jaijaipur, Distirct Jaanjgir Champa Chhattisgarh Presently R/o C/o Mithlesh Chandra, Kera Road Janjgir Beside Vinay Talkies Police Station And Tahsil Janjgir Distirct Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Acting Through The Secretary, Higher Education Department, Government Of Chhattisgarh, New Raipur, District Raipur Chhattisgarh.
2. Commissioner, Directorate Of Higher Education, Indravati Bhavan, New Raipur, District Raipur Chhattisgarh.
3. Principal, Government Bilasa Girls P.G. College Bilaspur, Distirct Bilaspur Chhattisgarh.

---- Respondents

For Petitioners	:	Shri KA Ansari, Sr. Advocate along with Shri Ramesh Kumar Nayak, Advocate.
For State	:	Shri Lav Sharma, Panel Lawyer.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment****Delivered on 14/05/2018**

1. These are two writ petitions which have been filed by the petitioners seeking for a direction to the respondents to declare the results of the examination conducted for filling up the post of Lab Technician held

in the year, 2014.

2. The grievance of the petitioners are that on an advertisement issued by the respondents for filling up of the post of Lab Technician under the respondent No.2, the petitioners being duly qualified had filed their candidature. The respondents have scrutinized their application forms and were found eligible and were accordingly issued with admit card for appearing in the written examination which was conducted on 16.11.2014. However, though the examination was conducted in November, 2014, till date the results have not been declared and time is running against the petitioners. Therefore, the petitioners have filed these petitions seeking for a direction to be issued to the respondents for declaring the results in which the petitioners had participated.
3. According to counsel for the petitioner, the entire action on the part of the respondents is arbitrary, unjust and illegal. The same also amounts to violation of fundamental rights of the petitioners enshrined under Articles 14 and 16 of the Constitution of India. Once when the recruitment process has been initiated, under no circumstances could the respondents have changed the rules of the exam and have cancelled the same contemplating fresh recruitment. It was incumbent upon the respondents to have proceeded further with the recruitment process. The petitioners referring to Annexure P/8 dated 17.07.2015 submits that the said instructions of the State Govt. were totally illegal for the reason that once when the advertisement has been issued under the prevailing set of rules, the

recruitment process could not have been stalled on the pretext of proposed amendment to the rules. This according to counsel for the petitioners is also in contravention to the various judicial pronouncements made by the Supreme Court time and again.

4. He relied upon the judgments of Supreme Court in cases of 2011(9)SCC 613, Govt. of Andhra Pradesh & Anr. Vs. Sri Sevadas Vidyamandir High School and Ors., 2015(8)SCC 484 Prakash Chand Meena & Ors. Vs. State of Rajasthan & Ors.
5. The State counsel on the contrary opposing the petition submits that both the petitions are misconceived and do not have any substantive merit for invoking extraordinary writ jurisdiction of this court. Referring to Annexure R/1 he submits that the respondents had already taken a decision inasmuch as to drop the recruitment process so far as filling up of the post of Lab Technician is concerned. The said decision was taken as per the instructions of the State Govt. It was also contended that no indefeasible right has been created in favour of the petitioners only because the petitioners were permitted to participate in the recruitment process.
6. Further contention of the State Counsel was that as is evident from Annexure P/8 dated 17.07.2015, the State Govt. found certain anomalies in the recruitment rules, so also the State Govt. was of the view that since the recruitment was for the post of Lab Technician, the people with Computer Science and other Computer related educational qualification also should be made essential part of the qualification wherein people with such qualification would also be

able to participate and which was also be in the larger interest of the institution where they would be recruited and thus, the action of the State Govt. cannot be said to be bad in law in any manner and prayed for rejection of the writ petitions.

7. First of all if we peruse the judgments of the Supreme Court referred to by the counsel for the petitioner, it would reveal that the facts and circumstances under which those judgments were passed were entirely different than the facts of the present case. Moreover, in none of those cases the recruitment process had been dropped mid way before conclusion as has been in the instant case. Thus, this court is of the view that the law laid down by the Supreme Court in the two judgments referred to by the counsel for the petitioner would not be applicable to the facts of the present case. Neither do the principle of law laid down in those cases come to the rescue of the petitioners in the factual background as narrated in the preceding paragraphs.
8. The undisputed facts in two writ petitions is that an advertisement was issued by the respondents for filling up the post of Lab Technician under the respondent No.2. The petitioners had applied for the said post and were called upon for written examination, however, the respondents in the light of the order of the State Govt. dated 17.07.2015, issued an order of cancellation of the recruitment process vide order issued on 08.09.2015 passed by the Additional Director, Higher Education, State of Chhattisgarh.
9. Now coming to the right of a person who had participated in the

recruitment process is concerned, the law by now is well settled that unless an order of appointment has been issued in favour of the selected candidate, no indefeasible right has been created in his favour on which this court in exercise of its power under Article 226 of the Constitution of India would subject the recruitment process to judicial review. In the instant case except for the participation in written examination, no further development has been taken place by the State Govt. Moreover, there is a conscious decision of the State to drop recruitment process for the moment for reasons as enshrined in Annexure P/8 dated 17.07.2015.

- 10.** There is no absolute obligation on the part of the government to complete the selection process and before completion of recruitment process, the employer is entitled to review and recall the recruitment process. The Supreme Court time and again have held that the plea of legitimate expectation or proportionality and even the doctrine of promissory estoppel will not apply to cases where the recruitment process initiated has been dropped by the employer midway. The situation would have been different if the recruitment process had been completed prior to any amendment made to the rules. Under said circumstances the recruitment process which stood completed prior to amendment of the rules could not have been recalled or dropped.
- 11.** In the instant case the recruitment process had infact not been completed. It was only dropped at a preliminary stage of conducting written examination, the results of which were also not published.

The aforesaid view of this court stands fortified from the judgments of the Supreme Court in case of Jai Singh Vs. State of Haryana, 1993 Suppl.(2)SCC 600, PK Jaiswal Vs. Devi Mukharjee, 1992(2)SCC148 and Jitendra Kumar Vs. State of Haryana, 2008(2)SCC 161.

- 12.** In the given facts and circumstances of the case, this court does not find any strong case made out by the petitioners for issuance of writ as has been sought for and for the reasons mentioned in the preceding paragraphs, both the writ petitions deserve to be and are accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

inder