

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 54 of 2018

Kishore Kumar Prajapati S/o Shri Gali Ram Prajapati Aged About 38 Years Working As Teacher Panchayat Varg-2, Government Middle School Batipathra, Block Bodla, District Kabirdham, Chhattisgarh, District : Kawardha (Kabirdham), Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Panchayat And Rural Development Department, Mantralaya Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Chief Executive Officer Zila Panchayat Kabirdham, District Kawardha (Kabirdham), Chhattisgarh (Respondent No.1 To 2 Were Respondents In W.P.(S) No. 2481/2018), District : Kawardha (Kabirdham), Chhattisgarh
3. Bhagwat Prasad Khandekar S/o Shri Jivan Lal Khandekar Aged About 45 Years Teacher (Panchayat) At Government Middle School Savantpur, Pandariya, R/o Village Khairwarkhurd, Tahsil Lormi, District Mungeli, Chhattisgarh (Petitioner No.1), District : Mungeli, Chhattisgarh
4. Smt. Vimla Mahobiya W/o Late Ashwani Mahobiya Aged About 45 Years Teacher (Panchayat) At Government Middle School Baiharsari, Bodla, R/o Village Pondi, Tahsil Bodla, District Kawardha (Kabirdham) Chhattisgarh (Petitioner No.2), District : Kawardha (Kabirdham), Chhattisgarh
5. Smt. Kamini Joshi W/o Shri Roopchand Joshi Aged About 35 Years Teacher (Panchayat) At Government Middle School Barhatti, Bodla, R/o Village Chirpani Colony, Tahsil, District Kawardha (Kabirdham) Chhattisgarh (Petitioner No.3), District : Kawardha (Kabirdham), Chhattisgarh
6. Ramashankar Patre S/o Late Komal Prasad Patre Khandekar Aged About 35 Years Teacher (Panchayat) At Government Middle School Damgarh, pandariya, R/o Village Tawarpur, Tahsil, District Mungeli, Chhattisgarh (Petitioner No.4), District : Mungeli, Chhattisgarh
7. Sukhdev Singh Ahileshwar S/o Dau Lal Ahileshwar Aged About 35 Years Teacher (Panchayat) At Government Middle School Makka, Kawardha, R/o Village Gorakhpur, Tahsil Kawardha, District Kawardha (Kabirdham) Chhattisgarh (Petitioner No.5), District : Kawardha (Kabirdham), Chhattisgarh
8. Bharat Prasad Khande S/o Tulsi Ram Khande Aged About 40 Years Teacher (Panchayat) At Government Middle School Damapurbazar, Pandariya, R/o Village Bansapur, Tahsil Pandariya, District Kawardha (Kabirdham) Chhattisgarh (Petitioner No.6), District : Kawardha (Kabirdham), Chhattisgarh

9. Sanad Kumar Dahariya S/o Mati Ram Dahariya Aged About 34 Years Teacher (Panchayat) At Government Middle School Palansari, Pandariya, R/o Village Baiharosari, Tahsil Bodla, District Kawardha (Kabirdham) Chhattisgarh (Petitioner No.7), District : Kawardha (Kabirdham), Chhattisgarh

---- Respondents

For Petitioners	:	Shri Abhishek Sinha and Shri Vinay Pandey, Advocates
For Respondent No.1/State	:	Shri Ramakant Mishra Dy.A.G.
For Respondent No.2	:	None appears.
For Respondents No. 3 to 9	:	Shri Mateen Siddiqui, Advocate

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/07/2018

Heard.

1. The petitioner herein has filed this review petition seeking review, recall, clarification of order dated 19.4.2018 passed by this Court in the writ petition earlier filed by the private respondents herein.
2. Learned counsel for the petitioner submits that the Government has been issuing certain circulars which are not legal and proper and those circulars have been made basis to issue a direction that reservation and promotion shall be made and candidature shall be considered in accordance with those instructions. It is further submitted that earlier when the direction was being issued, a circular was issued subsequently on 11.2.2008 after circular dated 8.3.2006, clarifying the earlier circular. This was also not brought to the notice of the Court and the order passed by this Court gives an impression that in the matter of consideration, circulars dated 8.3.2006 and 1.9.2017 alone would be holding the field, whereas after circular dated 8.3.2006, subsequent circular was issued by the Department of General Administration on 11.2.2008. According to him, thereafter, number of circulars have been issued but they did not find place in the order.

3. Learned counsel for the State would submit that the Court disposed off the matter on the basis of certain instructions which were issued by the Department of General Administration and Panchayat Department. He would submit that as far as the State is concerned, it shall be acting in accordance with the relevant provision of law and various circulars which have been issued by it from time to time.
4. Learned counsel appearing for the private respondents submits that at the time when the direction was issued on 19.4.2018, there was no challenge made to the legality and validity to any of the circular issued by the Government in the proceeding in which order has been passed. Therefore, no further clarification, recall or review is necessary.
5. As the order dated 19.4.2018 goes to show, this Court did not decide any lis. The petitioner in the writ petition came out with a case that the Government issued various circulars from time to time and therefore while considering cases for promotion, those guidelines which have been issued either by the General Administration Department or by Panchayat Department should be complied with.
6. Since the State did not raise any objection, the petition was simply disposed off with innocuous order that in the matter of reservation and promotion, the instructions will be kept in view. This Court did not say that no other circular or law of the land would not be applicable. The petition was disposed off only with limited observation in the absence of any dispute by either of the parties to the case. If there are other circulars like circular dated 11.2.2008 and other circulars governing field of promotion, it will always be open for the State to examine the promotion cases and take a decision thereupon.
7. Though learned counsel for the petitioner sought to argue before this Court that the circulars which have been referred to in order dated 19.4.2018 are otherwise illegal and contrary to the settled legal position in various judicial pronouncement, in these proceedings, the aforesaid assertion cannot be examined. It will be open for the petitioner herein to file a separate petition to seek proper declaration under the law with regard to legality and validity or otherwise in respect of circular dated 8.3.2006 and 1.9.2017 or such other

guidelines, instructions of the Government which he chooses to challenge.

8. With the clarification as above, the review petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen