

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 237 of 2017

- Ramswaroop Sahu S/o Shri Khuman Singh Sahu, Aged About 34 Years
R/o Village Bhendra, Tahsil Kurud, District Dhamtari, Chhattisgarh.,
Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department Of Panchayat, D. K. S. Bhawan, Raipur, Chhattisgarh
2. Chief Executive Officer, Panchayat, District Dhamtari, Chhattisgarh
3. The Collector, District Dhamtari, Chhattisgarh
4. District Education Officer, District Dhamtari, Chhattisgarh
5. Uma Bai Sahu, D/o Som Nath Sahu, Aged About 28 Years R/o Risali, Bhilai, District Durg, Chhattisgarh

---- Respondents

For Appellant	: Smt Renu Kochar, Advocate
For the State and Panchayat	: Shri RK Gupta, Deputy Advocate General and Shri UNS Deo, Government Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu

Judgment on Board

Per Ajay Kumar Tripathi, Chief Justice

04.10.2018

1. Heard learned counsel for the appellant, learned counsel for the Zilla Panchayat, Dhamtari and the State.
2. Writ application of the appellant was dismissed by the learned Single Judge vide order dated 04.05.2017. Appointment of respondent- 5 as Shiksha Karmi Grade- I for the post of Applied Economics was sought to be questioned without success. It is in this background that the appeal has been filed assailing decision dated 04.05.2017.

3. There was an advertisement issued by the Zilla Panchayat for appointment on the post of Shiksha Karmi Grade- I for different subjects. The appellant was aspirant for appointment for the subject Accountancy, whereas respondent- 5 had applied for the post in Applied Economics. Process of selection was undergone. The appellant was placed in the second position in the merit list for Accountancy, whereas respondent- 5, based on her marks, came to be appointed in subject of Applied Economics. When such appointment could not be earned by the appellant, he decided to approach the High Court under Article 226 of the Constitution of India. The argument before the learned Single Judge as also repeated before us is that the advertisement which was published was not in accordance with CG Panchayat Shiksha Karmi (Recruitment and Conditions of Services) Rules, 1997 (for short, 'Rules of 1997'). Alternative argument was that he had more marks than respondent- 5, therefore, had a better claim for such appointment.

4. Learned Single Judge has recorded the following findings in his decision in paragraphs- 7 and 8:

"7. It is not in dispute that the petitioner has applied for the post of Shiksha Karmi Grade- I in subject category Accountancy, whereas respondent No.5 has applied for subject category Applied Economics. The petitioner is not entitled to question the appointment of respondent No.5 as he never applied for this post in Applied Economics, therefore, comparison with respondent No.5 is completely erroneous. The petitioner has appeared in the examination pursuant to the advertisement and also appeared in the interview and he has secured second position in the merit

list, now he cannot be permitted to question the selection process.

8. It is trite law that a candidate taking a calculated chance by appearing in the examination after knowing fully well the procedural norms and eligibility qualification and only because the result of examination is not palatable to him, cannot turn around and subsequently, question the method of selection/eligibility qualification. Their Lordships of the Supreme Court time and again in umpteen number of cases have laid down the law in this regard. Following judgments may be noticed usefully and profitably herein."

5. We have gone through the Rules of 1997 and we do not find anything emerging therefrom to show that the advertisement so issued specifically identifying the subjects on which appointments are required to be made was erroneous in any manner. Another thing of significance is that the appellant is trying to attack the selection of respondent- 5 when he was not even an aspirant for that subject in the first place. One of the reasons why respondent- 5 seems to have been targeted is because she has 62.07% marks, whereas the present appellant had 67.79% marks.

6. Since chalk and cheese cannot be equated, therefore, merely because somebody with lesser marks has been selected in another subject to which he or she was an applicant, the failed candidate cannot be allowed to go on a roving kind of exercise to find a soft target.

7. Learned Single Judge has committed no error by dismissing the writ application as the whole effort on the part of the petitioner/appellant was to somehow cover up the failure to make it to the merit list of the subject to

which he was an applicant by targeting a selected candidate of another subject of which he was not even an aspirant.

8. This appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

padma