

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 7052 of 2018

- Tulsi Patel, D/o Shri Khageshwar Prasad Patel, Aged About 26 Years, Working As Guest Lecturer (Chemistry), Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Commissioner, Higher Education Department Directorate, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Principal, Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

---- Respondents

And

WPS No. 7058 of 2018

- Sanjay Madhukar S/o Shri Mahesh Ram Madhukar Aged About 30 Years Working As Guest Lecturer (Hindi), Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Commissioner, Higher Education Department Directorate, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Principal, Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

---- Respondents

And

WPS No. 7063 of 2018

- Awesh Goyal S/o Shri Bhanupratap Goyal, Aged About 25 Years Working As Guest Lecturer (Commerce), Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

----- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Commissioner, Higher Education Department Directorate, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Principal, Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

----- Respondents

And

WPS No. 7066 of 2018

- Lokesh Sharma S/o Shri S.P. Sharma Aged About 35 Years Working As Guest Lecturer (Chemistry). Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

----- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Commissioner, Higher Education Department Directorate, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Principal, Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

----- Respondents

And

WPS No. 7096 of 2018

- Santosh Das S/o Goso Das Aged About 36 Years Working As Guest Lecturer (History), Govt. Mahatma Gandhi Arts And Science College, Kharsia, District : Raigarh, Chhattisgarh

----- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Higher Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. Commissioner, Higher Education Department Directorate, Indrawati Bhawan, Naya Raipur, District

Raipur, Chhattisgarh

3. Principal, Govt. Mahatma Gandhi Arts And Science
College, Kharsia, District : Raigarh, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Brindawan Tiwari and Shri C.J.K. Rao, Advocates.
For Respondents/State	:	Shri Majid Ali, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

16/11/2018

1. These are the bunch of writ petitions where the challenge has been made to an advertisement which were issued on 12.07.2018 and 25.07.2018 by the respondent college in each of the writ petition.
2. The grievance raised by the petitioners in all these writ petitions is that the petitioners were working as guest faculty in respondent college in the previous academic session 2017-2018 and the respondents have discontinued their services after the academic session was over. The Respondents have now issued fresh advertisement and are intending to replace the petitioners by way of fresh set of guest faculty. The substantial grievance of the petitioners was that the respondents could not have replaced one set of guest faculty by another set of guest faculty by forcing the petitioners to participate in the fresh selection process each year inspite of the fact that there is no disability or incompetency alleged against the petitioners.
3. In all these cases, Shri Jitendra Pali, counsel entered appearance on behalf of caveators and has intimated this Court and brought on record the fact that in all these writ

petitions the advertisement under challenge has already been acted upon and the caveators have also been granted appointment order and pursuant to that they have also assumed their duties in the respective colleges in the month of August, 2018 itself. According to the caveators, the substantive right thus has been created in their favour and, therefore, the present writ petitions in its present form would not be sustainable.

4. It is also the contention of caveators that the petitions are also not sustainable for the reason that each of the petitioners themselves had also participated in the recruitment process and since they could not get selected at their previous place of posting and in many of the cases the petitioners have been found selected and have been given a different place of posting, they have now filed the present writ petitions. According to the caveators, this would also require dismissal of the writ petitions as the petitioners had not approached the Court at the appropriate time but have only filed the writ petition after they found themselves unsuccessful in getting the same place of posting where they were appointed in the previous academic session.
5. Having heard the contentions put forth on the either side and on perusal of the record, this Court finds that there is sufficient force in the argument advanced by the caveators.
6. True, it is that it is not in dispute that these petitioners have also participated in these fresh recruitment process initiated and having once participated in the recruitment process, they do not have a right to turn around and challenge the same recruitment process. Moreover, it is also not a case where the vacancy against which the petitioners are claiming relief is lying vacant. Pursuant to the advertisement being acted upon, the caveators or similarly placed persons have already been granted appointment and have also assumed their

duties. Thus, the post does not lie vacant any further and on this ground also it would be difficult for this Court in exercise of its power of judicial review entertaining the present writ petitions on merit in this bunch of writ petitions.

7. Thus, in the opinion of this Court, these writ petitions do not have sufficient force and the same deserve to be and are hereby dismissed.

Sd-

(P. Sam Koshy)

JUDGE

Yasmin/Vijay