

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6651 OF 2016

Harish B. Bisht. ... Petitioner.
V/s.
Union of India and another. ... Respondents.

Mr.Maheshwar A. Parab for the petitioner.
Mrs.S.V.Bharucha with Mr.P.S.Gujar for the respondents.

CORAM : A.S.OKA & SANDEEP K. SHINDE, JJ.

DATE : 27th November 2018.

P.C.:

An advertisement was published by the respondents on 22nd April 2012 inviting applications for recruitment of Constables in Assam Rifles. The petitioner applied on the basis of the said advertisement. In the advertisement itself which is at page-12, the instructions for filling up the application were mentioned. The following instruction was incorporated in the said instructions:

“Signature of Candidate (Wherever required)
Please sign in running hand. Signature in capital letters of English shall not be accepted and your application shall be summarily rejected. Unsigned application shall also be rejected.”

(Underline supplied)

Notwithstanding the aforesaid instruction/condition, the petitioner signed the application form in two places in capital letters. On that ground, the

petitioner's candidature was cancelled by the respondents as is clear from the communication dated 10th June 2015 issued by the Regional Director, Government of India, Staff Selection Commission (WR).

2. The learned counsel for the petitioner relied upon the decision of the learned single Judge of Rajasthan High Court dated 26th May 2014 in S.B. Civil Writ Petition No.12243/2011 and other connected matters (*Ramniwas son of Hari Ram v. Staff Selection Commission*). He submitted that in the said case, applications were invited for the posts of Constables in CISF, CRPF, BSF and SSB and a similar condition was imposed. By the said decision, the Rajasthan High Court held that such a condition requiring the candidates to sign only in running hand is violative of Articles 14 and 16 of the Constitution of India. The learned counsel for the petitioner submitted that though the petitioner was aware of the said specific condition in the advertisement itself, he signed the application in capital letters. He submits that the petitioner was orally informed by certain officers that in view of pendency of the aforesaid petition in Rajasthan High Court, the applications signed in the capital letters will be accepted. He submitted that in view of law laid down by the Rajasthan High Court striking down similar condition, the action of the respondents of cancelling candidature of the petitioner is completely illegal.

3. The learned counsel appearing for the respondents relied upon aforesaid condition in the advertisement and on the first page of the prescribed application form which again reiterates that the signature shall

be made only in running hand. She relied upon the decision dated 30th September 2011 of Punjab and Haryana High Court in C.W.P. No.13810/2011 (*Avtar Singh v. Union of India and another*). Her submission is that in this case, a similar condition was imposed and the Punjab and Haryana High Court refused to interfere. She invited our attention to the fact that candidature of the petitioner was rejected as contrary to the specific instruction given for signing the application in running hand, he signed in capital letters. She would, therefore, submit that no interference is called for.

4. We have made careful consideration to the submissions. We have already quoted the condition printed on the advertisement itself on the basis of which the petitioner applied. The petitioner was put to notice that if he fails to sign in running hand and signs in capital letters of English, his application shall be summarily rejected. The petitioner before making an application could have always challenged the said condition on the ground of it being violative of Articles 14 and 16 of the Constitution. It is not the case of the petitioner that he filled in the application form by signing the same in capital English letters without prejudice to his right to challenge the said condition. After accepting the said condition, he voluntarily participated in the selection process by filling in the application and after the authorities cancelled his candidature on the ground that he did not sign with running hand, now it is not open for the petitioner to come to the Writ Court and challenge the said condition. In any event, writ jurisdiction under Article 226 of the Constitution is always discretionary.

5. In paragraph-15 of the affidavit of Shri K.B.Jagtap, Regional Director, it is specifically stated that result was declared on 17th October 2012, and the writ petition was filed on 17th May 2016. The perusal of the annexure to the petition (Exhibit-F) shows that on 9th December 2014 the petitioner addressed a letter to the Chairman of the Staff Selection Commission in which he has mentioned that he has been disqualified on the ground of signing in capital letters. This letter supports the contention raised in the reply that the petitioner was aware of the declaration of result which was made on 17th October 2012. The petitioner, thereafter, made repeated correspondence. In any event, going by Exhibit-I to the petition which is a letter dated 10th June 2015, the petitioner was clearly informed the reasons for rejection of his application. Even thereafter, the petitioner waited for inordinately a long time and the writ petition was filed one year thereafter on 9th June 2016. Thus, apart from the fact that considering the conduct of the petitioner, he cannot be permitted to invoke writ jurisdiction, this petition suffers from gross delay and laches. Large number of posts were advertised by the respondents and large number of candidates applied for the said posts. Therefore, interference at such a belated stage cannot be made.

6. As regards the decision of Rajasthan High Court, firstly, the same does not bind this Court. Secondly, with greatest respect, the Rajasthan High Court has ignored the aspect about conduct of a person invoking writ jurisdiction. Having accepted the condition in the advertisement without protest and after participating in the selection

process, the petitioner cannot raise grievance about the illegalities in the selection process.

7. In view of the aforesaid reasons, we decline to entertain this petition under Article 226 of the Constitution of India and the same is rejected.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)