HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.9142 OF 2018

ORDER :

This Writ Petition is filed seeking writ of mandamus declaring the impugned proceedings in Rc.No.71/Rectt./Genl.1/2017, dated 19.08.2017 issued by the 2nd respondent cancelling the provisional selection of the petitioner as Stipendiary Cadet Trainee Police Constable (TPPS) (Men) on the ground that the petitioner has suppressed involvement in criminal case in both online Application Form and Attestation Form as illegal and arbitrary.

It is the case of the petitioner that in pursuant to notification issued by the 2nd respondent vide Rc.No.151/Rect./Admn.1/2015, dated 31.12.2015, he participated in the selection and selected to the post of Stipendiary Cadet Trainee Police Constables (TSSP) (Men). While so, the 2nd respondent issued show-cause notice dated 06.05.2017 to the petitioner asking his explanation as to why his provisional selection to the post of SCT PC (TSSP) in Recruitment-2015 should not be cancelled as it was found that he involved in a criminal case in Cr.No.23/2015 under Section 324 r/w 34 IPC of T.V.Palli PS of Prakasam District. In pursuant to the same, petitioner filed explanation on 24.07.2017 stating that he is not concerned with the registration of crime and he has not involved in any offence. But the respondents, without considering the explanation of the petitioner, issued impugned proceedings in

Rc.No.71/Rectt./Genl.1/2017, dated 19.08.2017 stating that petitioner's name is deleted. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Services for respondents.

Learned counsel for the petitioner submits that petitioner is not aware of the registration of Crime No.23 of 2015 and that even in the charge sheet, petitioner's name was deleted on 09.06.2015, which is much before the issuance of recruitment notification dated 31.12.2015. He submits that though the petitioner submitted explanation, but without considering the said explanation, issued the impugned proceedings, which is in violation of principles of natural justice. He also submits that even in cases where persons involved in criminal cases for the offences punishable under Sections 323 and 324 r/w 34 of IPC, 1860, in the judgment reported in **Avtar Singh v. Union of India and others**[1] the Hon'ble Supreme Court directed the appointing authority to consider the appellant's case afresh in the light of law laid down by Supreme Court in *Avtar Singh (2016) 8 SCC 471* while passing speaking order afresh and affording him an opportunity of hearing. He submits that when the petitioner is not aware about the registration of crime and his name is deleted in the charge sheet, the question of suppression of fact does not arise.

Though the petitioner filed explanations on 24.07.2017 and 21.08.2017 to the show-cause notice dated 06.05.2017, there is no whisper about the same in the impugned proceedings dated

[1] (2018) 1 Supreme Court Cases 268

19.08.2017 issued by the 2nd respondent. The impugned proceedings have been issued in a cyclostyle manner along with other candidates, cancelling the provisional selection of the petitioner along with others.

That apart, a perusal of the charge sheet filed against the petitioner on 10.09.2017 in C.C.No.258 of 2015 goes to show that the name of the petitioner is deleted. Though the petitioner asserts in his explanations that he is not aware of registration of crime to the show-cause notice, without considering the same and without application of mind, respondents have passed the impugned proceedings, which is in violation of principles of natural justice. This Court had an occasion to consider similar writ petition in W.P.No.12523 of 2018.

In view of the same, the impugned proceedings Rc.No.71/Rectt./Genl.1/2017, dated 19.08.2017 to the extent of cancellation of petitioner's provisional selection, is set aside and the competent authority is directed to consider the case of the petitioner for appointment, within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

16.04.2018
kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.9142 OF 2018

Date: 16.04.2018

kvs