

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7927 of 2018

Date of Decision: 02.04.2018

Shilpa Dahiya and another

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashutosh Kaushik, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.(Oral)

1. This is a petition seeking quo warranto against the appointment of respondent No.4 selected as a Senior Programmer in the Kalpana Chawla Government Medical College, Karnal. Petitioner No.2 Naresh Kumar and respondent No.4 Rajesh are stated to have been co-employees in a company called Hindustan Computers Limited (HCL). They competed together with petitioner No.1 for the post of Senior Programmer. The respondent No.4 was selected and offered appointment vide letter dated June 23, 2017. He submitted his joining on June 28, 2017. The petitioners have not challenged the selection on merits. Their grievance is based on a screen shot of the HCL profile of respondent No.4. This downloaded screen shot is said to show the status of the employee on July 06, 2017. Annex P-7 is the Search Employee Status at HCL. The assignment period is February 27, 2017 to July 24, 2017. On the last entry whether 'Active', the answer is 'No'. From these two documents, petitioner No.2 wishes to draw an inference that respondent No.4 worked in two places at the same time i.e. in respondent No.3 – Medical College and HCL and, therefore, there has been a violation

of the Haryana Government Employees (Conduct) Rules, 1966 (“1966 Rules”).

2. A writ of quo warranto would lie when an appointment is made contrary to statutory provisions. A petition for quo warranto is not meant to settle personal scores.

3. Quo warranto has been sought to try and skirt around the decision of the Supreme Court in Duryodhan Sahu V. Jitendra Kumar Mishra, (1998) 7 SCC 273 that Public Interest Litigation in service matters are not to be entertained. The nature of jurisdiction exercised by this Court while examining an appointment to public office from point of view of writ of quo warranto is limited to see whether the post is a public post which is likely to affect the community at large because of an illegal appointment usurping public office.

4. In University of Mysore v. C. D. Govinda Rao, AIR 1965 SC 491 the Supreme Court observed:

“...before a citizen can claim a writ of quo warranto, he must satisfy the court, inter alia, that the office in question is a public office and is held by usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not.”

5. The request for issue of writ *quo warranto* would normally be defeated with the production of the order of the Government appointing the respondent No.4 as a Senior Programmer in accordance with law. Whether or not the post of Senior Programmer can be brought to judicial scrutiny for *quo warranto* for violation of the 1966 Rules is concerned, the petitioner would in my view have no standing to question the appointment and seek its

quashing with the allegation that after joining office the respondent No 4 continued to work with HCL for a while. If at all it will be answerable in the exclusive private domain of the employer and the appointee. Conduct of an employee, if questionable, is for the employer to see. The petitioners have done their bit by complaining to the department in overlapping of jobs for about a month by the private respondent, if at all there is any ring of truth in the allegation.

6. Neither would the Court take judicial notice of e-profiles of persons available on the Internet without there being a full and complete statement of verifiable facts pleaded in the petition to make out a case for interference. Nor would a mere bald allegation of the kind made in this petition be enough to base an adverse conclusion against the respondent No 4. That would not be fair and just.

7. For these reasons, I would refuse to issue *quo warranto* when the petition is not maintainable and accordingly the same is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

02.04.2018

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Whether speaking/reasoned Yes

Whether reportable No