

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 149 of 2019**

- Gulrej Shah S/o Shri Shamsuddin Shah Aged About 40 Years R/o Dharampura, No. 2 Qr. No. H / 27-28, Jagdalpur, District Bastar Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhavan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.
2. Conservator Of Forest Jagdalpur, Circle Jagdalpur, District : Bastar(Jagdalpur), Chhattisgarh
3. Director, Forest School, Jagdalpur, District : Bastar(Jagdalpur), Chhattisgarh

---- Respondents

For Appellant	:	Shri R.S. Patel, Advocate
For Respondents-State	:	Shri Gagan Tiwari, Deputy Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Manindra Mohan Shrivastava, Judge****Judgment on Board****Per, Manindra Mohan Shrivastava, Judge****16.05.2019**

Heard.

1. This appeal is directed against the order dated 10.07.2018 passed by the learned Single Judge in WP(S) No.2995 of 2009, whereby the petition filed by the Writ Appellant has been dismissed.
2. The backdrop of events, in which this appeal has been filed by the Appellant, briefly stated, is that the Petitioner, while working as a daily wage employee, participated in a recruitment process initiated by Respondents in order to fill singular post of Physical Training Instructor (PTI), vide advertisement dated 28.05.2009. After completion of process of selection, which comprised of written examination and interview, a select list was prepared in which, the Petitioner was placed at the top. It appears, however that, later on, certain complaints were made and upon some internal enquiry made by the authority and it having been

found that certain irregularities had crept in, the entire selection process was cancelled, including the merit list. This gave the Petitioner a cause of action to file writ petition before this Court. Before the learned Single Judge, Respondent came out stating that though selection was made, later on, there were irregularities found due to which the Respondent took a conscious and *bonafide* decision and cancelled the entire examination and, therefore, no appointments were made.

3. Learned Single Judge after examining the pleadings and material put forth before it by learned counsel for the parties, came to the conclusion that the decision of the Respondent in cancelling the process of selection did not suffer from any illegality or arbitrariness. While holding so, learned Single Judge relied upon settled legal position adumbrated by the Hon'ble Supreme Court in plethora of decisions that a candidate, by mere selection, does not get any indefeasible right to be appointed.
4. Learned counsel for the Appellant would argue that the action of the Respondents in cancelling the process of selection was not only actuated by malafide but was also by patently arbitrary. He would submit that once the Petitioner was selected and placed in the merit list, the Respondents ought to have brought it to logical conclusion by issuing order of appointment to the writ petitioner, but on mere complaint, without proper enquiry, the process of selection was cancelled.
5. The learned State counsel, on the other hand, would submit that the challenge to the cancellation of selection is not on any strong material to impeach the decision of the authority based on satisfaction that irregularities had crept in the process of selection.

6. Having heard the learned counsel for the parties and perusing the records, we find that the petition is sans merit.
7. Apart from the settled legal position that a candidate on mere inclusion in the merit list, does not get indefeasible right to get appointed, we find that the learned Single Judge examined the records of the case and on the basis of the pleadings, it has recorded conclusion that the operative reason for cancellation of the process of selection was certain irregularities found which included irregularities in awarding marks in the interview also.
8. As far as allegations of malafide is concerned, we do not find that any specific pleading in that regard has been made. An allegation of malafide is required to be supported by specific pleading and clinching material. Such allegations are often levelled then established from cogent material. We do not find that the Petitioner has come out with any clinching evidence of malafide exercise of power by the authority, much less, there being any specific pleading in this regard.
9. The process of selection was initiated and cancelled way back in the year 2008-09. The writ petition filed by the Petitioner was dismissed on 10.07.2018 and the Petitioner took more than seven months to file this writ appeal, which otherwise is barred by 157 days.
10. In view of the above consideration, we do not consider it to be a fit case for granting any relief to the Petitioner by interfering with the well reasoned order passed by the learned Single Judge.
11. At this stage, learned counsel for the Appellant submits that as one post of PTI is still lying vacant, by virtue of his long continuance as a daily wage employee, he acquired eligibility for regularization in terms of Supreme

decision as held in case of ***State of Karnataka & Others vs. Uma Devi & Others; (2006) 4 SCC 1*** and the policy of regularization promulgated by the State Government on 05.03.2008, we would not comment on merits of Appellant's claim for regularization. It is open for the Appellant to raise his claim before the appropriate forum.

12. Writ appeal is dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Manindra Mohan Shrivastava)
Judge