

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.4972 OF 2015**

1. Ashish Kumar Thawait S/o Shri Ramesh Kumar Thawait, Aged About 26 Years R/o Muhalla Post Khokhra, Tahsil And Police Station Janjgir, District Janjgir Champa, Chhattisgarh
2. Lalit Mohan Jaltare, S/o Shri Ganpat Lal Jaltare, Aged About 25 Years R/o Village Navagad, Police Station Navagad, District Janjgir Champa, Chhattisgarh.
3. Pushpendra Kumar Sahu, S/o Shri Khedu Ram, Aged About 35 Years R/o Village Champa, Police Station Champa, District Janjgir Champa, Chhattisgarh.
4. Kuldeep Kumar Kashyap, S/o Shri Kashi Ram Kashyap, Aged About 24 Years R/o Village Birra, Police Station Birra, District Janjgir Champa, Chhattisgarh.
5. Prakash Kumar Bareth, S/o Shri Netram Bareth, Aged About 26 Years R/o Village Khokra, Police Station Janjgir, District Janjgir Champa, Chhattisgarh.
6. Rohit Kumar Devangan, S/o Shri Lakhan Lal Devangan, Aged About 23 Years R/o Village Birra, Police Station Birra, District Janjgir Champa, Chhattisgarh.
7. Raja Ram Yadav, S/o Shri Janak Ram Yadav, Aged About 39 Years R/o Village Risda Bhadrpara Balko Nagar, Police Station Korba, District Korba, Chhattisgarh.
8. Vishnu Das Panika, S/o Shri Hari Das Panika, Aged About 42 Years R/o Village Pasarkhet, Police Station Kartala, District Korba, Chhattisgarh.
9. Chandrakant Singh, S/o Shri Rajendra Singh, Aged About 26 Years R/o Village Darang, Police Station Champa, District Janjgir- Champa, Chhattisgarh.
10. Guharam Banjare, S/o Late Shri Nankiram, Aged About 37 Years R/o Village Darang, Police Station Champa, District Janjgir Champa, Chhattisgarh.
11. Parmesh Kumar Kahra, S/o Shri Dau Ram Kahra, Aged About 27 Years R/o Village Saragaon, Police Station Champa, District Janjgir Champa, Chhattisgarh.
12. Jitendra Kumar Suryawanshi, S/o Shri Chat Ram Suryawanshi, Aged About 32 Years R/o Village Mehanda, Post Kutra, Police Station Pamgad, District Janjgir Champa, Chhattisgarh.
13. Santosh Das, S/o Shri Mahentar Das, Aged About 35 Years R/o Village Bankigongra, Police Station Banki Gongra, District Korba, Chhattisgarh.

...Petitioner(s)**Versus**

1. State of Chhattisgarh Through the Secretary, Health and Family Welfare Department Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. Chief Medical and Health Officer, Korba, District Korba, Chhattisgarh.

... Respondent(s)

For Petitioners	:	Shri Prateek Sharma, Advocate.
For Respondent-State	:	Shri P. Acharya, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.04.2019**

1. Challenge in this petition is to the order dated 03.11.2015 (Annexure P/1) whereby the respondents have notified in the Rozgar Niyojan dated 18.11.2015 publishing that the respondents have taken a decision to cancel the recruitment process initiated for filling up of the post of Male Multipurpose Health Workers for district Korba.
2. The petitioners through the present writ petition have contended that the respondents have not given any cogent justified reasons for cancellation of the said recruitment process. The petitioners have also alleged that the said recruitment process was cancelled on account of certain blue eyed boys not able to succeed in the written examination conducted by the department. Further contention of the petitioners is that even if the department intended to cancel the same, the authorities were duty bound to give reasons as to what was the circumstances under which the department took a decision of cancelling recruitment process.
3. The petitioners referring to the documents submitted by the respondents, submitted that it is a case where from the records it appears that there was no decision taken earlier for cancellation of appointment and there is no subsequent decision also in this regard giving any explanation as to what was the compelling circumstances to cancel the recruitment process. The petitioners relied upon the judgments of Supreme Court in cases of 2010 (7)SCC 678, AIR 1986 (2) SC 2105 and AIR 2010 SCW 3277.

4. The State counsel on the contrary referring to annexures with the writ petition submitted that since it was decided by the State Govt. to conduct appointment of the post of Male Multipurpose Health Worker also by the Chhattisgarh Professional Examination Board (Vyapam), the State Govt. took a decision for cancelling the recruitment process initiated by the respondent No.2. According to the State counsel, since it was only an examination which was conducted and even the results were not declared and before that the petitioners have no indefeasible right in their favour to seek for any relief from this court under Article 226 of the Constitution of India and therefore prays for dismissal of the writ petition.
5. Having heard the rival contentions put forth on either side and on perusal of records, what is primarily to be taken note of is the time that has lapsed from the date of recruitment process that was initiated till now. Indisputably, the advertisement was published on 23.12.2013 and the examination in this regard was conducted in July, 2014 and the cancellation of recruitment was done vide notification dated 03.11.2015. By efflux of time, about five years time have lapsed from the date of cancellation of the recruitment.
6. What is also to be seen is that though the examination was conducted in July, 2014, no results were declared. Since results were not declared, it cannot be said that any right as such had been created in favour of the petitioners.
7. Now whether the department had justified or cogent reasons for cancelling recruitment process is concerned, if we look into the affidavit which has been filed by the respondent No.2 on 07.01.2016,

it would reveal that the respondent No.2 has given a statement on oath stating that cancellation was done on verbal instruction received from the Directorate level. Further, from the document enclosed along with return it appears that the State Govt. had taken a stand of all further recruitment in the department to be conducted by the Chhattisgarh Professional Examination Board (Vyapam).

8. In view of the fact that the return and document show that department wanted the recruitment process to be conducted by the Vyapam, it appears that they had issued an instruction to the department not to finalize any recruitment process that were initiated at local level or by the department as such. In view of the same, it cannot be said that the department has, in any manner, conducted themselves in a arbitrary manner nor have the petitioners been able to show any malafide against the department or against any of the officers in the department, more particularly of victimizing the petitioners in the instant case.
9. Another reason for not interfering with the impugned order is the fact that about five years have been lapsed from the date the recruitment process were cancelled by the department. Down the line many more suitable and eligible candidates must have also become eligible for the said post. If that be so, it would be in the larger interest of the department now for going in for a fresh recruitment altogether for filling up of the said post of Male Multipurpose Health Workers in accordance with rules governing the field where the petitioners also, subject to their fulfilling eligibility criteria, would get a chance of participating afresh in the recruitment process.

10. With the aforesaid observations, the present writ petition stands disposed of.

11. Since large number of posts are lying vacant in the department, it is expected that the State Govt. would take prompt steps for filling up of these posts at the earliest.

Sd/-
(P. Sam Koshy)
Judge