

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6861 of 2018

Vinayak Gupta S/o Shri Rajesh Gupta Aged About 28 Years R/o Borodipa,
Near Gupta Medical At Pussore (N.P.) Post Purssore, District- Raigarh,
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Secretariat, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh, District- Raipur, Chhattisgarh.
2. The Collector Raigarh, District- Raigarh, Chhattisgarh.
3. The Chief Executive Officer Zila Panchayat Raigarh, District- Raigarh, Chhattisgarh.
4. The District Education Officer Raigarh, District- Raigarh, Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Ajay Kumar Chandra, Advocate
For State	:	Mr. P. Acharya, Panel Lawyer
For Respondent No.3	:	Mr. Ghanshyam Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/07/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 19.09.2018, whereby the representation preferred by the petitioner pursuant to an order passed by this Court in WPS No. 5127/2018, which was disposed of on 23.08.2018 has been rejected.
2. The contention of the petitioner is that he had appeared in the recruitment process for the post of Lecturer (Panchayat) and when the merit list was published on 27.09.2017, the name of the petitioner appeared in the serial No.1 in the waiting list. According to the petitioner one of the selected candidates did not join her duties and therefore the vacancy which arose then should have been filled by granting an opportunity to the petitioner, thus the order passed by the respondents is bad in law.

3. The State counsel opposing the petition submits that the bare perusal of the impugned order itself would show that subsequently the State Government itself has passed a general order on 25.07.2018 banning all further recruitments on the posts of Teacher (Panchayat), therefore the claim of the petitioner cannot be accepted at this juncture.
4. The other development which the State counsel pinpointed at this juncture is that subsequently the schools run by the Panchayat Department have all got merged with the Education Department of the State Government and therefore the requirement of fresh Teachers or for appointment to be given from the pending waiting list, if any, also would be a case, which needs to be considered by the Education Department and on this ground also the petitioner as of now as a matter of right cannot claim any direction for grant of appointment.
5. Having heard the contentions put forth on either side and on perusal of record, undoubtedly it is always the prerogative of the State Government to decide grant of appointment or not. Since the petitioner's name appeared in the waiting list, the petitioner as such cannot as a matter of right claim for a direction for grant of appointment. The reasons pointed out by the State Government i.e. firstly there being a total ban on recruitments of Teacher (Panchayat) as of now and second ground being that the schools under the Panchayat Department, under which the petitioner had applied for getting merged with the Education Department, the requirement of job again is one which has to be considered by the State Government.
6. This Court in exercise of its power under Article 226 of Constitution of India or exercising the power of judicial review or exercising the power of

issuance of a writ of mandamus cannot direct the State Government to grant appointment to the petitioner, when as a policy decision they have as of now banned all further recruitments and also the schools of the Panchayat Department getting merged with the Education Department, the statistics of the teaching staff and non-teaching staffs get changed substantially.

7. Under the circumstances, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order. The reluctance of this Court in entertaining the writ petition would not come in the way of the Department, if they so want to grant appointment to the petitioner in the event of lifting of the ban at a later stage.
8. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved