

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 7371 of 2018

1. Bablu Prasad Charmkar S/o Shri Akaliya Charmkar, Aged About 31 Years, Occupation Guest Faculty (Sociology), Government Lahidi College, Chirmiri, R/o Village And P.O. Chhanaudi, District - Shahdol, Madhya Pradesh.
2. Dr. Sandeep Singh S/o Shri Ram Bahadur Singh, Aged About 37 Years, Government Lahidi College, Chirmiri, R/o Village Tikat Khurd, P.O. Mawai, P.S. And Tahsil Churhat, District - Koriya, Chhattisgarh.
3. Mohd. Taufik Shri Mohd. Shafik, Aged About 23 Years, Government Lahidi College, Chirmiri, R/o Ward No.12, Near Madina Masjid, Haldi Bazar, Chirmiri, District - Koriya, Chhattisgarh.
4. Kulsum Bano D/o Shri Minhadjuddin, Aged About 26 Years, Government Lahidi College, Chirmiri, R/o Ward No.35, Subhash Colony, Chirmiri, Doman Hill, Sonawani Coalery, District - Koriya, Chhattisgarh.
5. Akanchha Sharma D/o Shri Madhaw Prasad Sharma, Aged About 25 Years, Government Lahidi College, Chirmiri, R/o Ekta Nagar, Gudripara, Chirmiri, District - Koriya, Chhattisgarh.

---Petitioners

Versus

1. State Of Chhattisgarh, Through Its Secretary, Department Of Higher Education, Ministry At Mahanadi Bhawan, New Raipur, P.S. - Rakhi, District - Raipur, Chhattisgarh.
2. Commissioner, Higher Education, Directorate At Indrawati Bhawan, New Raipur, P.S. Rakhi, District Raipur, Chhattisgarh
3. Principal, Lahidi Government College, Chirmiri, P.O. And P.S. Chirmiri, District - Koriya, Chhattisgarh.

---Respondents

For petitioners	:	Shri Jai Prakash Shukla, Advocate.
For State	:	Shri Rahul Mishra, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/02/2019

1. The challenge in the instant Writ Petition is to the advertisement dated 05/07/2018.
2. The relief sought for by the petitioner is that the petitioners were engaged as a Guest Faculty in the previous academic session of the 2017/2018 and they were also serving the department in the previous years also. However, services have been discontinued and fresh advertisement on 05/07/2018 has been issued. The relief sought for by the petitioners is that the respondents should be restrained from replacing one set of Guest Faculty by another set of Guest Faculties. The stand of the petitioners is that it is not the case of the respondents that the petitioners in any manner are not competent or does not have requisite eligibility criteria but it is only the culmination of the contractual period that is coming in the way of the petitioner and they should be continued for further academic years also till the respondent fill up the post by way of regular recruitment process.
3. During the course of the argument it has been brought to the notice of the of the Court that the petitioners in fact had participated in the selection process and they were not found meritorious or the petitioners were placed lower in the merit list as compared to the persons selected. The fact that the petitioners have themselves participated in the subsequent recruitment process and after being unsuccessful, this Court is of the opinion, they now cannot be permitted to agitate and challenge the advertisement which in due course of time has been acted upon and the selected persons have been appointed. The claim of the petitioners could have been strong if the

petitioners would have approached the Court at the time of the issuance of the advertisement itself.

4. Supreme Court time and again have reiterated the principle that once when a candidate participates in the recruitment process and is unsuccessful, he cannot later on turn around and challenge the recruitment process on the basis of his past experience that he has. This view has been taken by this Court also in a Bunch of writ petitions of similar nature.

5. In 1995 3 SCC 486 in the case of **Madan Lal & Ors. v. State of J & K & Ors.** in paragraph 9, the Supreme Court has held as under:-

“9. XXXXXX Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted.XXXX”

6. Likewise again in 2020 12 SCC 576 in the case of **Manish Kumar Shahi v. State of Bihar** in paragraph 23, the Supreme Court has held as under:-

“23. XXXXX Surely, if the Petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The Petitioner invoked jurisdiction of the High

Court Under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the Petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition.”

7. Reiterating the same stand in the case of **Ramesh Chandra Shah & Ors. v. Anil Joshi & Ors. [2013 11 SCC 209]**, the Supreme Court in a case where the petitioners took part in the selection process and not being successful had challenged the method of recruitment itself not accepting the said to be a strong ground in paragraph 24 has held as under:-

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.”

8. In view of the same, this Court is of the opinion that no strong case has been made out by the petitioners for grant of relief which has been sought for. So far as the judgment which has been relied upon by the petitioners is concerned that again is decided on entirely different factual context and situations in this case also were different within the factual position as it

stands in the present case, therefore, the same is distinguishable on facts itself.

9. The writ petitions accordingly stands dismissed.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit