

High Court for the State of Telangana

The Hon'ble The Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Dr Justice Shameem Akther

W.A. No. 129 of 2018

Date: 26-06-2019

Between:

Eerla Suchitra and another

...Appellants

And

The State of Telangana
Rep. by its Principal Secretary to Govt.,
GAD (Ser) Department
Telangana Secretariat, Hyderabad and another

...Respondents

Counsel for the Appellants: Mr. K. V. Rajasree

Counsel for respondent No.1: GP for Services

**Counsel for respondent No.2: Mr. D. Balakishan Rao,
Standing Counsel**

The Court made the following:

Judgment: (per Hon'ble The Chief Justice Raghvendra Singh Chauhan)

The appellants-petitioners are aggrieved by the order dated 18-09-2017, passed by the learned single Judge in W.P.No.31259 of 2019 whereby the learned Single Judge has dismissed the Writ Petition filed by the appellants, challenging the Notification No.17 of 2017 dated 14-04-2017, for selection of Art Teachers in the Telangana Social Welfare Residential Educational Institutions (for short 'the Residential Educational Institutions').

Briefly, the facts of the case are that the respondent No.2 had issued the aforesaid notification, inviting applications for the posts of Art Teachers in the Residential Educational Institutions. The appellants, who were hopeful, had applied for the said posts. They had even taken the written examination on 31-08-2017. However, prior to the publication of the result, the appellants had filed a writ petition wherein they had challenged the aforesaid notification. By the impugned order, the learned Single Judge had dismissed the Writ Petition *inter alia* on the ground that since the appellants

had participated in the written examination, they should not have questioned the notification apprehending the possibility that they may not be selected. Hence, the present appeal before this Court.

The learned counsel for the appellants-petitioners had vehemently contended that the National Council for Teacher Education (Determination of Minimum Qualifications for Persons to be recruited as Education Teachers in Pre-primary, Primary, Upper primary, Secondary, Senior Secondary or Intermediate Schools or Colleges) Regulations, 2014 (for short 'the Regulations'), prohibits the relaxation of the provisions with regard to the appointment of teachers for Level 3 (Class I to VIII) as specified in its First Schedule. Furthermore, the education qualification has been prescribed in the First Schedule. Therefore, for the appointment of Art Teachers in the residential educational institutions, the State is unjustified in relaxing the eligibility requirement. According to the learned Counsel, since the notification dated 14-04-2017, relaxes the eligibility requirement *vis-à-vis* the educational qualification, the same is legally unsustainable. Therefore,

the learned Single Judge is unjustified in dismissing the writ petition filed by the appellants, petitioners.

On the other hand, the learned counsel for the respondent No.2, the Telangana State Public Service Commission, submits that in case the appellants were aggrieved by the relaxation of the educational qualification mentioned in the Notification, they should have challenged the same immediately. But, instead of challenging the notification immediately, they appeared for the written examination. However, apprehending the possibility that they may not pass the written examination, they have challenged the notification. According to the learned counsel, once a candidate has participated in the selection process, he cannot be permitted to challenge the selection process.

Secondly, the selection process has come to an end, as the appointments have already been made. Therefore, no fruitful purpose would be served in upsetting the notification.

Lastly, when once the appointments have been made, third party rights have been created. Therefore, according

to the learned counsel, the writ petition is hit by delay and laches.

Heard the learned counsel for the parties, and perused the impugned order.

It is, indeed, trite to state that a litigant has to be vigilant about his own rights. Whenever a litigant discovers that his rights are violated, he is expected to immediately rush to the Court, and to seek legal relief. A litigant cannot be permitted to sleep over his rights, and to suddenly wake up one fine morning, and still expect the Court to rush to his rescue. After all, by efflux of time, new rights and interests are created, which may be in favour of the third parties. Therefore, the Courts are reluctant to interfere at a belated stage.

Admittedly, the appellants, petitioners, did not challenge the notification immediately upon its publication on 14-04-2017. Instead, they waited, and participated in the written examination. It is only at the belated stage of having given the written examination that the appellants

have approached this Court. Therefore, the appellants have approached this Court at a belated stage.

In catena of cases, the Hon'ble Supreme Court has held that a person, who has participated in the selection process, cannot be permitted to challenge the said selection process. Hence, the learned Single Judge was justified in opining that since the appellants-petitioners have participated in the selection process, they should be precluded from challenging the selection process.

Moreover, since the selection process has come to a naught, no fruitful purpose would be served by setting aside the notification. For, setting aside the notification would adversely affect the interests of all those persons, who have already been selected, appointed, and have been working for many years.

For the reasons stated above, this Court does not find any merit in the present writ appeal. It is, hereby, dismissed.

As a sequel, miscellaneous petitions, pending if any,
stand dismissed as infructuous.

(Raghvendra Singh Chauhan, CJ)

(Dr. Shameem Akther, J)

Dt: 26th June, 2019
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