

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.6174 of 2018

ORDER:

This Writ Petition is being disposed of at the interlocutory stage with the consent of both the parties.

This Writ Petition is filed for the following relief:

“.....Writ of Mandamus declaring the action of the 2nd respondent in issuing proceedings vide Rc.No.291/Rectt./Genl.1/2017 dt.23.12.2017 by canceling the Provisional selection of the Petitioner to the post of SCT RSI (TSSP) in recruitment 2016 as illegal, arbitrary and consequently set aside the same.....”

Heard Sri T.Rajinikanth Reddy, learned counsel for the petitioner and Sri M.V.Rama Rao, learned Standing counsel appearing for the 2nd respondent.

It has been contended by the petitioner that he was provisionally selected to the post of Stipendiary Cadet Trainee (SCT) Reserve Sub-Inspector of Police (RSI) in pursuance to the Recruitment Notification issued in 2016. But, at the time of verification of antecedents of the petitioner, the respondents found that petitioner was involved in a criminal case i.e.Crime No.6 of 2011 for the offences punishable under Sections 420, 468, 406 IPC r/w 156(3) Cr.P.C and on the alleged ground that the petitioner has suppressed the fact of involvement in the said crime, the respondents have passed impugned order dt.23.12.2017 canceling his provisional selection to the post of

SCT RSI (TSSP). Challenging the same, the petitioner has filed the present writ petition.

The petitioner had contended that he has not suppressed about his involvement in the above said crime. A perusal of the contents in the crime would disclose that the allegations made therein are civil in nature. He further contends that the police had investigated into the said crime and closed the FIR on the ground that the case is of a civil nature. Therefore, the question of suppressing about the involvement of the petitioner in the above said crime would not arise, as prosecution was not initiated against the petitioner.

Learned counsel for the petitioner contends that the action of the respondents in passing impugned order dt.23.12.2017 cancelling the provisional selection of the petitioner to the post of SCT RSI (TSSP), is illegal and arbitrary. He further contends that when a similar issue fell for consideration before this Court in W.P.No.40717 of 2017 and batch dated 08.03.2019, this Court was pleased to dispose of the said batch of writ petitions by setting aside the impugned cancellation of provisional selection orders and directed the respondents therein to reconsider the cases of the petitioners therein by applying the principles set out by the Hon'ble Supreme Court in ***Avtar Singh v. Union of India and others***¹. Learned counsel for the petitioner, therefore, contends that this writ petition also be disposed of in terms of the judgment

¹ (2016) 8 SCC 471

rendered by this Court in W.P.No.40717 of 2017 and batch, dated 08.03.2019 setting aside the impugned order and the respondents may be directed to reconsider the case of the petitioner strictly in terms of the judgment rendered by the Hon'ble Supreme Court in **Avtar Singh's** case (*supra*).

On the other hand, learned Standing counsel appearing for the respondents contended that every opportunity was given to the petitioner before passing impugned order dt.23.12.2017 cancelling the provisional selection of the petitioner to the post of SCT RSI (TSSP) and since explanation submitted by the petitioner is not satisfactory and convincing, the provisional selection of the petitioner was cancelled after following the due procedure. Therefore, no interference is called for and the writ petition is liable to be dismissed.

Having regard to the rival submissions made by the learned counsel for the respective parties, this Court is of the considered view that the impugned order dt.23.12.2017 does not disclose the reasons for cancelling the provisional selection of the petitioner to the post of SCT RSI (TSSP), except stating that explanation submitted by the petitioner is not convincing.

Admittedly, in the instant case, no competent criminal Court has taken cognizance of any offence against the petitioner. The police had investigated the offence and having found that the allegations levelled in the FIR are civil in nature, the police have closed the FIR filed against the petitioner and no

criminal proceedings were initiated against the petitioner. Therefore, impugned order dt.23.12.2017 of cancellation of provisional selection of the petitioner to the post of SCT RSI (TSSP) is arbitrary, illegal and hence, the same is liable to be set aside.

Accordingly, the impugned order dt.23.12.2017 issued by the 2nd respondent is set aside and the respondents are directed to reconsider the case of the petitioner strictly in terms of the principles set out by the Hon'ble Supreme Court in ***Avtar Singh's*** case (*supra*) and pass appropriate orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

With the above observations, the Writ Petition is disposed of. No costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

06.06.2019
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