

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 7716 of 2019

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking the following relief:

“....to issue Writ, order or direction more in the nature Writ of Mandamus, declaring the impugned action of the 2nd Respondent, in conducting Physical Measurement Test (PMT) and Physical Efficiency Test (PET) by a) NOT following proper and uniform method among all the candidates in Height, Chest, 800m Run etc, and b) ADOPTED fraudulent methods and declared Disqualified candidates as Qualified by correcting Performance Sheets, c) CHANGES in recorded Start and End timings of 800m events in the servers which supposed to be uneditable, d) QUALIFIED candidates who completed 800m Run in 170.5 seconds though Respondents mentioned mathematical rounding till 170.4999 as per Press Release No.RC.No. 88,89,90,91/Rect./Admin-1/2018 Date: 02-03-2019, as a result declared the petitioners herein as Not-Qualified for the direct recruitment of Stipendiary Cadet Trainee (SCT) Sub Inspector of Police (Civil) SCT RSI (SAR CPL), SCT RSI (TSSP), Station Fire Officer and Deputy Jailer, Notification No. RC.No.89/Rect./Admin-1/2018 Dated: 31-5-2018 and for the Direct Recruitment of Stipendiary Cadet Trainee (SCT) Police Constable (Civil), SCT PC (AR), SCT PC (SAR CPL), SCT PC (TSSP), Firemen and Warders, Notification No. RC.No.88/Rect./Admin-1/2018 Dated: 31-5-2018 as illegal, arbitrary, discriminatory, fraudulent, against principles of natural justice and violative of Art 14, 16, 19 (g) and 21 of Constitution of India and consequently Direct the 2nd Respondent to reconduct events for all disqualified candidates if possible, Otherwise direct 2nd Respondent to CANCEL all Physical Measurement Test (PMT) and Physical Efficiency Test (PET) and CONDUCT AFRESH PMT and PET events, in the interest of justice and to pass...”

2. Heard Sri Ramesh Chilla, Counsel for the petitioners, Government Pleader for Home for the 1st respondent and Sri M.V.Rama Rao, Standing Counsel for the 2nd respondent.

3. It has been contended by the petitioners that they are fully eligible and qualified to be appointed as Stipendiary Cadet Trainee (SCT) Sub-Inspector of Police (Civil), SCT Reserve Sub-Inspector of

Police (AR), SCT Reserve Sub-Inspector of Police (SAR CPL), SCT Reserve Sub-Inspector of Police (TSSP), SCT Reserve Sub-Inspector of Police (TSSP) in 15th Bn and SCT Police Constable (Civil), SCT Police Constable (AR), SCT Police Constable (SAR CPL), SCT Police Constable (TSSP) in Police Department, Constable in Telangana Special Protection Force Department, Firemen in Telangana State Disaster Response & Fire Services Department and Warders in Prisons & Correctional Services Department and they have responded to the notifications issued by the respondents *vide* Nos.RC.No.89/Rect./Admin-1/2018, dated 31.05.2018, and RC.No.88/Rect./Admin-1/2018, dated 31.05.2018, for the said posts. The petitioners further contend that they have cleared the Preliminary Written Test (PWT) and they were also called for the next phase of selections i.e., Physical Measurement Test (PMT) and Physical Efficiency Test (PET) and while conducting the Physical Measurement Test and Physical Efficiency Test, the respondents have erroneously recorded the timings and measurements of the petitioners and disqualified them and in respect of some selected candidates, the respondents have altered the performance details, timings and physical measurements and qualified them in an arbitrary and illegal manner.

4. Counsel for the petitioners contended that large scale irregularities have occurred while conducting the Physical Measurement Test and Physical Efficiency Test. Therefore, the entire selections are liable to be cancelled and in the interest of justice, the respondents be directed to re-conduct the Physical Measurement Test and Physical Efficiency Test and if the petitioners qualify in the said re-conducting of the above tests, the respondents shall consider their

cases for further selections to the above said posts. Counsel for the petitioners further contended that the timings recorded by the Radio Frequency Devices were directly uploaded on the servers, which are uneditable and the respondents have edited the uneditable recordings of some of the few candidates, which is not permissible, thereby giving a scope to the unqualified candidates to get qualified and they have selected few candidates and the petitioners were disqualified on account of erroneous recordings by the respondents. Therefore, Counsel for the petitioners contends that the writ petition be allowed and the entire selections be set aside on account of the large scale irregularities occurred while conducting the Physical Measurement Test and Physical Efficiency Test.

5. Standing Counsel for the 2nd respondent had contended that the petitioners have participated in the Physical Measurement Test and Physical Efficiency Test and having not qualified, the petitioners cannot turn around and contend that the respondents have erroneously recorded the performance of the petitioners and the Standing Counsel had denied that the respondents had edited the uneditable recordings in the server. Only when genuine mistakes were noticed during the course of verification, some corrections were made and the respondents are entitled to correct the *bona fide* mistakes at any stage of the selections. Therefore, no *mala fides* can be attributed to the respondents and no *mala fides* were also pleaded in the writ petition. Standing Counsel for the 2nd respondent has further contended that the material papers filed at Page Nos.258 & 259 are the internal documents of the respondents and the petitioners have not disclosed about the source of obtaining the said documents. Standing Counsel has further contended that the

performance of all the candidates have been videographed and whenever any candidate, who was not satisfied with the recordings of timings and measurement particulars, his/her case was reviewed by re-examining his/her case by seeing the video footage and on coming to know that grave injustice has been done because of the *bona fide* mistakes, only those cases were corrected and only in those cases, the performance details were corrected and by correcting the *bona fide* mistakes, no prejudice would be caused to the petitioners. Admittedly, the petitioners have disqualified in the Physical Measurement Test and Physical Efficiency Test. There are no merits and the writ petition is liable to be dismissed.

6. Standing Counsel for the 2nd respondent has also brought to the notice of this Court that this Court has already dismissed a similar writ petition in W.P.No.7566 of 2019, *vide* order, dated 10.04.2019, and the present writ petition also deserves to be dismissed.

7. This Court, having considered the rival submissions made by the parties, is of the considered view that the petitioners, having participated in the selection process and having not qualified in the selections, cannot turn around and contend that because of the erroneous recordings of the performance of the petitioners, they were disqualified and in respect of some of the candidates whose performance sheets were altered by the respondents so as to make them qualified is concerned, it has been contended by the Standing Counsel that *bona fide* mistakes were corrected in favour of the persons where injustice has been done, after verifying the video footage of their performances and no prejudice would be caused to the petitioners if some of the unqualified candidates were made to qualify

by correcting the *bona fide* mistakes and on that ground alone, the petitioners cannot contend that entire selection process be cancelled and as this Court has already dismissed W.P.No.7566 of 2019 *vide* order, dated 10.04.2019, wherein similar contentions were also raised, therefore, this Court is not inclined to interfere in the case and as there are no merits, the writ petition is liable to be dismissed.

8. Accordingly, the Writ Petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 12th April, 2019

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