

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghendra Singh Chauhan

and

The Hon'ble Sri Justice A.Rajasheker Reddy

W.A. No.363 of 2019

Date: 26-04-2019

Between:

Nimmakuri Shashi kumar and 31 others

...Appellants

and

The State of Telangana
Rep. by its Principal Secretary to Govt.
Home Department
Telangana Secretariat, Hyderabad and another

...Respondents

Counsel for the appellants: Mr. Ramesh chilla

Counsel for the respondents: GP for Home

The Court made the following:

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

The appellants are aggrieved by the order dated 02-04-2019, passed by the learned Single Judge in Writ Petition No.6987 of 2019, whereby the learned Single Judge has dismissed the writ petition *inter alia* on the ground that the petitioners did not attend the re-examination conducted on 28-03-2019 and 29-03-2019. Therefore, a re-examination of their physical fitment cannot be ordered by this Court.

Briefly the facts of the case are that, the appellants claim that they are fully eligible and qualified to be appointed to the posts of Sub-Inspector of Police/Police Constable. Therefore, they had applied for the same. However, the requirement of the physical measurement test is that the height should be 167.6 cms, and the chest should expand by 5 cms on inhalation. Since the appellants could not qualify in the physical measurement test, their candidature was rejected. However, according to the appellants, other candidates, who were marginally disqualified, were re-examined on 28th and 29th of March, 2019, in accordance with an order passed by this Court in Writ Petition No.6551 of 2019. The appellants further plead that since they did not

receive any message from the respondents to participate in the physical measurement test scheduled on the said two dates, they could not be present on the said two dates. Hence, they filed the writ petition seeking re-examination by the respondents. However, by the impugned order, the learned Single Judge has dismissed the writ petition. Aggrieved thereby, the petitioners therein have filed the present appeal before this Court.

The learned counsel for the appellants has raised the following contention before this Court:-

No individual notice was given to the appellants of the scheduled re-examination on 28th and 29th of March, 2019. It is only through the press note issued by the respondents that they were made aware of the fact that a re-examination is scheduled to be held on the said dates. However, when the appellants reached the venue, they were not re-examined by the respondents. Therefore, the learned Single Judge should have directed the respondents to re-examine the petitioners.

On the other hand, the learned counsel for the respondents submits that since a large number of persons were required to be re-examined, a press note was duly

published. Hence, there is no requirement that a personal notice has to be sent to each candidate.

Secondly, there is no evidence produced by the appellants that they had reached the venue either on 28-03-2019, or on 29-03-2019. Hence, there is nothing illegal about the impugned order passed by the learned Single Judge. After all, those who did not avail the chance cannot claim that no chance was given. Therefore, the learned counsel has supported the impugned order.

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

Although the learned counsel for the appellants claims that the appellants did not get any message, simultaneously, he claims that the appellants were well aware that there is a re-examination scheduled for 28-03-2019 and 29-03-2019. Thus, the information was known to them through the press note issued by the respondents. Since the information had been conveyed through a public notice, the appellants cannot claim that they should have been informed individually by the respondents.

The averments made in the affidavit are unclear whether the appellants reached the venue for re-examination or not ? Therefore, the learned Single Judge is justified in concluding that the appellants did not avail the chance of re-examination. Since the appellant did not avail the chance, they cannot be aggrieved by the fact that they had not been re-examined by the respondents.

For the reasons stated above, this Court does not find any illegality or perversity in the order passed by the learned Single Judge.

This appeal being devoid of merits is, hereby, dismissed.

As a sequel Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(A.Rajasheker Reddy, J)

Dt: 26th April, 2019
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