

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.13699 OF 2019

Date:27.08.2019

Between:

Thonikoj Shyam Kumar S/o.T.Anjaneyulu,
Aged about 28 yrs, R/o.H.No.7-89/13,
Shankar Nagar, Peerzadiguda, Uppal Depot,
Medpally Mandal, Medchal District & others.

.....Petitioners

And

State of Telangana,
Rep., by its Principal Secretary,
Home Department, Secretariat,
Hyderabad & another.

.....Respondents



The Court made the following:

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ORDER:

Heard learned counsel for petitioners and Sri M.V.Rama Rao, learned Government Pleader for respondents.

2. Recruitment notification was issued on 31.12.2015 by the 2nd respondent-to fill the post of Police Constable. Petitioners participated in the selections. As per the merit secured by them, they were provisionally selected. However, they were issued show cause notice calling explanation why their names should not be deleted from provisional selection list on the ground that though they do not possess the Heavy Motor Vehicle licence, they have disclosed in their application as having heavy motor vehicle licence and the same would amount to misrepresentation/furnishing wrong information and therefore, their selection is liable to be cancelled. Ignoring the explanation offered by the petitioners the respondents passed orders canceling the provisional selection. One such order is dated 28.07.2017 concerning the first petitioner. Similar orders are passed canceling the provisional selection of all other petitioners.

3. According to learned counsel for petitioners, in the proforma prescribed by the respondent-recruitment Board, there is column to mention the light motor vehicle licence, whereas against "Type of licence-Transport Vehicle Licence (HTV/HMV)" is only mentioned. As there was no scope of mentioning the possession of light motor vehicle licence, petitioners have made suitable entry. Therefore, petitioners cannot be held to have made wrong statement. He would further submit that possession of heavy motor vehicle would entitle them to get one additional mark and even if that mark is

deleted, petitioners are still within the zone of selection and they ought to have been appointed.

4. Learned counsel for the petitioners also placed reliance on the directions issued by this Court in W.P.No.1846 of 2019 and batch dated 25.03.2019. Taking due note of the eligibility of petitioners therein and directing to delete the marks secured on the ground that petitioners therein wrongly mentioned the qualification as HMTV, this Court directed consideration of the petitioners therein for appointment to the post of Constables. It appears, no challenge is made to the said decision.

5. Learned Standing counsel justified the decision to cancel the provisional selection of petitioners. According to him, there is clear suppression by the petitioners deliberately. Suppression of material information in the selection process is a grave offence, and liable for cancellation of selection process. He would further submit that the directions issued by this Court in W.P.No.1846 of 2019 & batch do not give rise to cause of action to petitioners. Petitioners were not diligent in availing the remedy, even assuming that they are entitled to, immediately after finalization of selection process. Selection process was finalized on 31.05.2018 and a fresh recruitment notification was issued and results of the writ examination are scheduled to be announced.

6. As can be seen from the application, the proforma prescribed by the respondent-Board, the only entry against Type of Licence is HTV/HMTV. There was no provision made to indicate the possession of light motor vehicle licence. Therefore, it cannot be said that petitioners have deliberately made wrong statement in filling up the application.

7. Learned counsel for the petitioners, fairly submits that petitioners did not possess heavy motor vehicle licence and they only have light motor vehicle licence. Further according to petitioners they are eligible for selection, even after exclusion of one mark awarded to them against Type of Licence. It is not disputed that the petitioners are similarly situated to the petitioners in W.P.No.1846 of 2019 & batch.

8. Further according to learned Standing counsel, once provisional selection list is prepared, for any reason the names of the persons included in the provisional list are deleted, the other candidates who are also qualified will not be included and those vacancies will be carried over to the next recruitment. In other words, no persons were appointed in the vacancies against which petitioners were provisionally selected. Further another notification was issued, but recruitment is not finalized. Thus there is no third party interest crept into the recruitment process. Petitioners are entitled to be selected, if they are coming within the zone of selection after excluding one mark awarded to them on the assumption that petitioners possess heavy motor vehicle licence as declaration given by petitioners cannot be said as amounting to deliberate and willful false declaration, having regard to the proforma application prescribed by the respondent-Board.

9. Writ Petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

27th August, 2019
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