

IOIN-CWP-26693-2018 in
CWP-26693-2018

ISHAAN SHARMA AND ANOTHER
VS.
STATE OF HARYANA AND ANOTHER

Present : None for the petitioners.

Ms.Kirti Singh, D.A.G., Haryana

Mr. H.N. Mehtani, Advocate
for respondent No. 2

The petitioners, who were unable to fill up online application form for the post of Civil Judge (Junior Division) in the cadre of Haryana Civil Service (Judicial Branch) advertised vide advertisement No.6 of 2016 subsequently corrected vide Corrigendum dated 27.08.2018 due to technical snag in the website of respondent No.2, filed petition for issuance of writ in the nature of mandamus directing the respondents to allow the petitioners to fill up the application form and to accept the same after the last date of receiving the applications i.e. 30.09.2018.

Vide order dated 16.10.2018, notice was ordered to be issued for 20.03.2019 and respondent No.2 was directed to accept the hard copy of the application forms of the petitioners.

Respondent No.2 filed its written statement along with application for preponing the date of hearing. In its written statement, respondent No. 2 submitted that vide announcement dated 22.10.2018, the candidates who could not submit online application forms during the period from 01.09.2018 to 30.09.2018 had been allowed to apply online on 25th and 26th October, 2018.

Learned Counsel for the petitioners submitted that in view of the extension of date and uploading of forms of petitioners online, prayer in the petition had been rendered infructuous.

The petition was disposed of as infructuous accordingly, vide order dated 25.10.2018. However, while disposing of the petition this Court also observed as under :-

“...This Court is constrained to record that the Commission has filed application in this Court with affidavit signed by the Superintendent working there as if there is no senior officer available in the Commission. The practice needs to be deprecated.

At the time of hearing it was pointed out that the decision to extend the date for submission of applications was taken up in the meeting of the Selection Committee HCS (JB) in this Court held on 17.10.2018, on a reference made by the Commission. It has been recorded in the minutes of the aforesaid meeting that the Agency which was entrusted the job of receipt of online applications by the Commission will issue a Certificate within a week regarding breakdown/malfunctioning of the server alongwith necessary proof. Meeting was attended by the Chairman of the Commission. However, admittedly till date there is no certificate with the Commission. The only thing available with the Commission, on the basis of which reference was made to the High Court, is a noting on the official file of the Commission by some person signing on behalf of the Safedot eSolution Private Limited. The person who had put a noting in the official file of the Commission has not even mentioned his designation and the Authority. In fact, the official file was referred to him, instead of seeking explanation is a procedure totally unknown. An official file is never referred to a private person for comments therein.

The Commission needs to explain this conduct. For that the matter be listed on 14.11.2018.”

In compliance with above order, Mr. Nishant Kumar Yadav, Secretary, Haryana Public Service Commission, Panchkula filed affidavit dated 12.11.2018. Para Nos.2 to 7 of the affidavit are reproduced as under:-

“2.That qua this aspect, it is brought to the kind notice of this Hon’ble Court that the Commission has outsourced the technical work of operating and maintaining the online portal to an agency namely Safedot eSolution Private Limited, which is a specialized agency for the said purpose.

3.That on a complaint having been received from the candidates regarding non-functioning of the online portal, the Commission had sought an explanation from the Director of the said agency, who was called in the office of the Commission on 11.10.2018, as the Commission had received no response from him till then, despite oral reminders. On having called him to the office, the Director of the agency namely Mr. Jasbir Singh, explained the situation to the officials of the Commission and deponent, under which the online portal stopped working. However, with a bonafide intention, the Director of the said agency was asked to give the reasons in writing immediately on the official file itself there and then, so that

immediate action can be taken by the Commission, by referring the matter to the Commission, who may thereafter refer/inform about the same to the Hon'ble Selection Committee Punjab and Haryana High Court formed for HCS (JB) for taking an appropriate decision.

4. That accordingly, the Director, in front of the officials of the Commission as well as deponent, gave his comments on the file, there and then for immediate action so that the Commission could act promptly upon the same. Thereafter, on directions of the Hon'ble Selection Committee of Punjab and Haryana High Court formed for HCS (JB), the said agency was also asked to supply the certificate explaining the technical reasons as to why there was a breakdown in the online portal on 30.09.2018 alongwith proof on 22.10.2018, as 18.10.2018 to 21.10.2018 were holidays.

5. That on 26.10.2018, i.e. a day after the hearing in the present case, the said agency has also supplied the certificate stating the problem that occurred in the website of the Commission on 30.09.2018 and the said certificate has already been forwarded to the Hon'ble Selection Committee of Punjab and Haryana High Court formed for HCS (JB). However, for kind perusal of this Hon'ble Court, a copy of the said certificate is attached as **Annexure A-1**.

6. That it is re-iterated at the cost of repetition that the official file of the Commission was never forwarded to the Director of the agency and instead the Director of the agency was called to give the factum regarding non-working of the site on 30.09.2018, in writing on 11.10.2018 itself in view of the urgency involved, which was further referred to the Commission for taking further necessary action. Hence, the official file had never been referred to the said Director for his comments/reference.

7. That it is submitted that the deponent has the highest regard for the Hon'ble Court and is bound to follow any direction issued by the Hon'ble Court in the future. However, the Commission has already taken a decision to communicate with the said agency through letters only and would follow the said procedure in any exigency which may arise in future."

The Certificate of server performance submitted by Mr. Jasbir Singh, C.E.O. of Safedot eSolution Private Limited to Secretary, Haryana Public Service Commission, Panchkula has been enclosed with the abovesaid affidavit as Annexure A-1 which reads as under :-

"Haryana Public Service Commission has allotted us the work of Online application for various Post advertised by Commission. I Jasbir Singh S/o Ranbir Singh C.E.O. of Safedot Esolution Private Limited SCO 93 Sector – 11 Panchkula-134109 Contact No 9815151529 email ID jasbir@safedot.in do hereby certify that we have started online portal on 01-09-2018 for filling online application form for the Post of Civil Judge (Junior Division) in HCS (Judicial Branch) and last date of filling online application was 30-09-2018 at 5 P.M. On Dated 30-09-2018 after 12:00 PM server encountered a technical error of "Data insertion" due to

which server has stopped uploading of application form but online fee payment and form print out, both were working properly. Due to holiday on 30-09-2018 our Server Manager was on leave, we call our Manager in office immediately. Around 5:20 PM we have resolved the issue without restarting the server and without any halt in online payment gateway. But the time of closing of online form was 5:00 PM, due to which some candidates who have tried to apply online on 30-09-2018 after noon, in just last moment have face difficulties in applying online. As per Direction of HPSC we have restarted the online application form with dedicated monitoring team for 25-10-2018 and 26-10-2018 midnight 12 (Two Days).”

It is evident from a perusal of the affidavit of Secretary, Haryana Public Service Commission, Panchkula that certificate regarding breakdown/malfunctioning of the server submitted by the C.E.O. of the concerned outsourced agency had been forwarded to the Selection Committee of respondent No.1 and the concerns expressed by this Court in order dated 25.10.2018 have also been appropriately adverted to for remedial action and procedure has also been devised to be followed in any such exigency which may arise in future.

In the facts and circumstances of the case, we are of the considered view that no further action/adjudication by this Court is required in the matter which is disposed of accordingly.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

05.09.2019
Kavneet Singh