

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No. 95 of 2014**

1. Chhatram Bhaina S/o Late Shri Suddharam Bhaina Aged About 40 Years Resident Of Village And Post Muktaraja, Nagar Panchayat And Police Station Baradwar, Civil And Revenue District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh S/o Through The Secretary, Urban Administration And Development Department, Mantralaya New Raipur, Police Station Rakhi, Civil And Revenue District Raipur Chhattisgarh.
2. The Director Urban Administration And Development Department Raipur Chhattisgarh.
3. The Nagar Panchayat Baradwar, Through The Chief Municipal Officer, District Janjgir Champa Chhattisgarh
4. Laxman Singh S/o Late Shri Sunderlal Resident Of C/o Shri Radheshyam Singh , Milan Chowk , Mangla Road, Kududand, Near U.D.M. Hospital, Bilaspur , District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Prateek Sharma, Advocate.
For State	: Shri Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.12.2020**

1. The challenge in the present writ petition is to the advertisement (Annexure P/1) dated 03.05.2013 for filling up of one post of Assistant Revenue Inspector by direct recruitment under the quota for ST category.
2. The brief facts of the case is that the petitioner was appointed as a Peon under the respondent No. 3 on 23.01.2009 to be precise and the petitioner's services were initially kept on probation, subsequently he has been regularized in service. According to the petitioner, he now fulfills the eligibility criteria for being promoted to the post of Assistant Revenue Inspector under the quota for Scheduled Tribe category. The Rules

governing the field is the Chhattisgarh Nagar Panchayat Employees (Recruitment and Service Condition) Rules 1968 (In short Rules 1968).

3. The total number of sanctioned post of Assistant Revenue Inspector in the department is four. Under the Rules, the ratio of filling up of the post is 60 % by way of promotion and 40 % by way of direct recruitment. The impugned advertisement was issued on 03.05.2013 for filling up of one post of Asst. Revenue Inspector under the ST category. It is this advertisement which is under challenge by the petitioner herein.
4. According to the petitioner, the promotion could not have been made by way of direct recruitment for the ST category for the reason that the respondent in the process of filling up of the other posts have not applied the reservation policy or as per roster system. That all the posts of Assistant Revenue Inspector already occupied are by the unreserved category candidates. Thus the next post ought to have been filled at least by applying the reservation policy and applying the reservation policy, the first post would have gone to the ST category in which the petitioner is the only candidate available and who would have got the promotion.
5. The contention of the petitioner further is that even the advertisement is bad for the reason that it is in direct violation of Rule 5A and Rule 11 of the aforementioned Rules 1968.
6. From the pleading that are made available and from the return that have been filed by the respondents, the admitted factual matrix as it stands, it reveals that so far as the sanctioned vacant post of Assistant Revenue Inspector is concerned, there are total four posts. Admittedly three posts for Assistant Revenue Inspector stands already occupied by Dujeram Sahu, Daduram Sahu and Prakash Shrivastava. Dujeram Sahu and Daduram Sahu are the candidates who have been shown in the records as persons who have been promoted on the post of Assistant Revenue Inspector from

the post of Peon. That Dujeram Sahu was promoted on 05.11.2004 whereas the Daduram Sahu was promoted on 28.07.2008.

7. A fact which requires mentioning at this juncture is that when the aforementioned two promotions were made/given to the Dujeram Sahu and Daduram Sahu, the petitioner infact was not even born in the department, who was appointed only in the year 2009 i.e. on 23.01.2009 to be precise. Thus, from the admitted facts, out of four posts, three posts already stands filled up, two by promotion and one by transfer and only one post which was left vacant had to be filled up and as per the Rules of 1968, the same had to be filled up by way of direct recruitment alone.
8. The petitioner is not a candidate who had applied as a direct recruitment candidate. The petitioner is claiming promotion against the promotion quota, the promotion quota already stands filled up by the aforementioned promotion orders, those promotion orders are not under question in the present writ petition.
9. Even, if the contention of the petitioner is to be accepted that the respondents have violated the reservation policy for filling up of the promotion quota that could only be in the process of challenging the promotion orders issued in favour of the Dujeram Sahu and Daduram Sahu both of which are not under challenge in the present writ petition. That as far as the right of the petitioner qua the advertisement is concerned, this Court is of the opinion that the petitioner as such may not have a right to challenge the recruitment process initiated by the respondents to be filled up by way of direct recruitment, even if it is in-violation of the reservation policy, for the reason that the petitioner is not a candidate under the direct recruitment. It is also not the case of the petitioner that he has been deprived of participation in the recruitment process by virtue of the reservation applied by the respondents. That the claim of the petitioner is

not against the quota for direct recruitment, whereas it is against the promotional quota. Now so far as the promotion avenues which is said to have been blocked by the respondents on account of arbitrary and illegal action on the part of the respondents, but all said and done even if it is said to be arbitrary and malafide, unless the order of promotion granted to the two persons allegedly contrary to the reservation policy is under challenge, the petitioner cannot come in the way of the respondents deciding to fill up that one post which has to be filled against the direct recruitment quota.

10. Given the aforesaid factual matrix of the case, this Court is of the opinion that the petitioner as such does not have any right to question the advertisement issued for filling up of the post against direct recruitment and the writ petition therefore being devoid of merits deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
Judge**

Jyotijha