

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 635 of 2020**

Uttar Pradesh Hindi Prakashak Mandal Through Its General Secretary/member Shri Satyendra Shukla, Office- 180/28-A, Old Allapur, Prayagraj, Uttar Pradesh., Uttar Pradesh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director Directorate Of Public Instruction, Indrawati Bhawan, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. State Chief Librarian Directorate Of Public Instruction, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- **Respondents**

WPC No. 639 of 2020

Nagendra Shukla S/o J.P. Shukla Aged About 52 Years Proprietor Of Bal - Bharti Prakashan, Residence And Office At 30, Old Allapur, Prayagraj, Uttar Pradesh, Uttar Pradesh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. The Director Directorate Of Public Instruction, Indrawati Bhawan, District Raipur, Chhattisgarh
3. State Chief Librarian Directorate Of Public Instruction, District - Raipur, Chhattisgarh

---- **Respondents**

For Petitioners	:	Mr. Sushil Dubey with Mr. Aman Upadhyay, Advocates
For State	:	Mr. Anshuman Shrivastava & Mr. Ashutosh Mishra, Panel Lawyers

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

18/02/2020

1. The relief sought for in both the writ petitions is as under :-

“(10.1) It is prayed that this Hon'ble Court may kindly be pleased to call for the entire records pertaining to case of the petitioner for its kind perusal.

(10.2) That, this Hon'ble Court may kindly be pleased to issue a writ/order directing the Respondent No.2 to produce the list of applicants and who the work order for book purchase was allotted to and how many applications were rejected and the details for rejection.

(10.3) That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus whereby to cancel the Work Order issued by Respondent No.2 in favour of selected applicants as well as entire process for book purchase and direct the Respondent No.2 to initiate fresh process considering the candidature of all the rejected applicants/publishers including the members of petitioner society.

(10.4) That, this Hon'ble Court may kindly be pleased to hold that para 6 of the impugned application/terms and condition therein is bad and discriminatory to the extent which mandates minimum 8 lakh rupees turnover of the applicant.

(10.5) That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus whereby directing the competent authority to enquire the matter pertaining to the case of the petitioner in respect of rejecting the application made by the members of the

petitioner society without disclosing specific and reasonable cause and punish the persons who are involved in the same.

(10.6) That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus whereby directing the competent authority to remove all the illegal and unconstitutional conditions relating to GST in the case of publishers dealing with the business of printed books and further be pleased direct Respondent No.2 to strictly abide the provisions of the Central Goods and Services Tax Act, 2017 and in all cases where registration is not made mandatory under the Act, 2017 the competent authority will not go ultra virus and will not make such condition as mandatory one.

(10.7) That, this Hon'ble Court may kindly be pleased to initiate departmental enquiry and punish the guilty persons rigorously.

(10.8) Any other relief/reliefs, which this Hon'ble Court may think fit and proper in the facts and circumstances of the case, with cost of the petition, may also please be granted to the petitioners.”

2. Plain reading of the relief No.10.3 of the writ petition of the two writ petitions itself clearly establishes the fact that grievance of the petitioners seems to be an advertisement that was issued on 07.08.2019 and said advertisement has since been acted upon and concluded.
3. From the contents of the pleadings of the writ petition itself and also from the submission made by the counsel for the petitioners it clearly reflects that work order pursuant to the advertisement also has been issued to the selected candidates.
4. What has to be noted is the fact that work order issued to the selected candidates is not under challenge in either of the writ

petitions. Another aspect which needs consideration is the fact that none of the beneficiaries who have been issued with the work order are also made a party to the present writ petition.

5. In the absence of any challenge to the work order and also in the absence of those beneficiaries in whose favour the work order were issued not being made a party to the present writ petition, entertaining the present writ petition would be detrimental to the interest of those beneficiaries and for the said reason, the writ petition at this juncture would not be maintainable or sustainable.
6. Moreover, WPC 635/2020 is a writ petition filed in a representative capacity by an association, this Court is of the opinion that writ petition in a representative capacity again would not be maintainable so far as the challenge to a tender/advertisement is concerned. For the purpose of exercising writ jurisdiction, it is always the aggrieved person or an individual whose right has been infringed who has to come before this Court, it cannot be raised through a representative capacity by an association.
7. For both the aforesaid reasons, this Court is of the opinion that writ petition is not sustainable. However, reluctance by this Court to entertain the writ petition would not preclude the petitioners to avail appropriate remedies available to them.
8. With the aforesaid observations, both the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge