

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 281 of 2020****(Arising out of order dated 13.9.2019 passed in WPS No.7443/19
by learned Single Judge)**

- Arjun Rao, S/o Shri I.R. Keshav, aged about 37 years, Asst. Professor (Adhoc) Forensic Science, Guru Ghasidas University, Koni, Bilaspur, R/o Bharti Nagar, Vyapar Vihar, Bilaspur (CG)

---- Appellant**Versus**

1. Smt. Sushma Upadhyay, W/o Prabhakar Upadhyay, aged about 36 years, Working as Assistant Professor (Adhoc), Guru Ghasidas Central University, Koni, Bilaspur, R/o Quarter No. 4, Type-5, Bharni, Group Camp CRPF Bilaspur Chhattisgarh.
2. Guru Ghasidas Vishwavidyalay (a Central University) through the Registrar, Guru Ghasidas Vishwavidyalay (a Central University) Koni, Bilaspur Chhattisgarh.
3. Screening Committee (Forensic Science Department) Chhattisgarh Guru Ghasidas Vishwavidyalay (a Central University) Bilaspur Chhattisgarh.
4. Dr. Moumita Sinha, working as Asst. Professor (Adhoc), Forensic Science, Guru Ghasidas Vishwavidyalay (a Central University), Bilaspur Chhattisgarh.

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For Appellant	:	Mr. Kshitiz Sharma, Advocate
For Respondent Nos.1 to 3	:	Mr. A.Shrivastava, Advocate
For Respondent No.4	:	Mr. N.K. Vyas, Advocate

Hon'ble Shri P. R. Ramachandra Menon, CJ**Hon'ble Shri Parth Prateem Sahu, J****Order On Board****Per Parth Prateem Sahu, J****19/10/2020**

1. Challenge in this writ appeal is to the order dated 13.9.2019 and subsequent orders extending interim order dated 13.9.2019 passed in WPS No.7443/2019 till next date of

hearing.

2. Mr. Kshitiz Sharma, learned counsel for the appellant submits that respondent No.2 had issued an advertisement for appointment on the posts of 'Assistant Professor, Associate Professor & Professor' for different subjects. Appellant participated in the selection proceeding for the post of 'Assistant Professor (Forensic Science)'. Total 07 posts of Assistant Professor (Forensic Science) have been advertised, out of which, 02 posts are for unreserved category; 01 for Scheduled Castes category; 01 for Scheduled Tribes category and 03 for OBC category. Respondent No.1 filed writ petition challenging selection process adopted by respondents No.2 & 3 for short-listing the candidates in which respondent No.1 has not been called for interview. Petitioner/respondent No.1, who is claiming appointment against unreserved post, has arrayed appellant as respondent No.4 and one Dr. Momita Sinha as respondent No.3 in writ petition. Appellant has submitted his application for appointment on the post reserved for Scheduled Castes category also. He submits that even if petitioner/respondent No.1 succeeds in writ petition, she will be appointed against unreserved post, but the prayer of appellant for vacating stay has been turned down by learned Single Judge vide order dated 21.11.2019. It is further contention of learned counsel for appellant that posts reserved for ST & OBC categories have already been filled up on the basis of same selection proceeding initiated by respondent University and if

appellant is later on found to be eligible for appointment and given appointment, he will lose his seniority.

3. Mr. N.K. Vyas, learned counsel representing petitioner/respondent No.1 submits that the learned Single Judge considering the facts and grounds raised in writ petition has passed the interim order dated 13.9.2019. After hearing learned counsel for respective parties, the learned Single Judge vide order dated 21.11.2019 has turned down the prayer for modification of interim order dated 13.9.2019. He further contended that appeal itself is not maintainable in view of the provision contained under Section 2 (1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006.
4. Mr. Ashish Shrivastava, learned counsel appearing for respondent University concedes to submissions made by learned counsel for appellant that posts of Assistant Professor of Scheduled Tribes and Other Backward Classes categories have already been filled up by adopting the same procedure. He points out that the entire selection process has not been put to challenge by the petitioner/respondent No.1. The respondent University is also suffering adversely on account of non-fulfilment of advertised posts of Assistant Professor (Forensic Science) and looking to the order under challenge, which is an interim order, the writ appeal itself is not maintainable.
5. At this stage, Mr. Kshitiz Sharma, learned counsel for the appellant submits that appellant may be permitted to withdraw this writ appeal with liberty to file appropriate application in

pending writ petition for modification of interim order or for final disposal of writ petition itself at the earliest.

6. Taking into consideration the entire facts and circumstances of the case, we allow the prayer of learned counsel for appellant and dismiss the writ appeal as withdrawn with liberty as sought for.
7. Considering the submission made by learned counsel for appellant as also respondent University, we express our hope and desire that the learned Single Judge would consider and decide the application, if any, filed by appellant, considering the subject matter of the petition, as expeditiously as possible.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/