

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.18295 of 2020

ORDER

This writ petition is being disposed of at the admission stage with the consent of both parties.

2. This writ petition is filed seeking the following relief :-

“.... to issue a Writ, Order or a direction more particularly one in the nature of Writ of Mandamus:

i) to declare the proceedings in Rc.No.104/ Pectt./ Genl.1/ 2017 dated 02.12.2019 issued by the first respondent cancelling selection of the petitioner to the post of SCTRSI (AR) in Zone-V vide Registration No.1003013 as illegal, arbitrary, unjust and unconstitutional apart from violation of principles of natural justice and against Articles 14, 16 and 21 of the Constitution of India; and

ii) to consequently set aside the same; and

iii) pass such other order or orders as this Hon'ble Court deems fit, proper and appropriate in the circumstances of the case.”

3. Heard Si Nandigam Krishna Rao, learned counsel appearing for the petitioner, and the learned Special Government Pleader appearing for the respondents.

4. It has been contended by the petitioner that he is fully eligible and qualified to be appointed for the post of Police Constable. While so, the respondents have issued a recruitment Notification on 31.05.2018 and pursuant to the said Notification, he has responded to the same and after undergoing regular selection process, he was provisionally selected for the post of Sipiendary Cadet Trainee for Reserve Sub-Inspector (Armed Reserve) SCTRSI (AR) vide Selection List dated 12.07.2019. In the process of selection, he has to fill up one attestation form informing as to whether any criminal case is pending against him. Accordingly, he has filled the said attestation form making it very clear that criminal proceedings in C.C.No.22 of

2018 on the file of Special Judicial Magistrate of First Class for Prohibition and Excise Cases, Warangal, are pending against him.

5. Learned counsel appearing for the petitioner contended that the petitioner is falsely implicated in C.C.No.22 of 2018. Counsel further submitted that though trial has commenced in the said criminal case, due to pandemic situation, the criminal case is not being proceeded further and the Investigating Officer is not yet examined before the trial Court. Counsel also submitted that as per the evidence brought out on record in C.C.No.22 of 2018, there is nothing to substantiate the charge against the petitioner, as none of the witnesses have supported the prosecution case, and had the Investigating Officer been examined, the case in C.C.No.22 of 2018 would have definitely ended in acquittal. Be that as it may, the respondents have issued a Show-cause Notice on 21.10.2019 asking as to why the provisional selection of the petitioner could not be cancelled on the ground of his involvement in criminal case. Pursuant to the said Show-cause Notice, the petitioner has submitted a detailed explanation on 26.10.2019 making it very clear that he is falsely implicated in the criminal case. But, the respondents, without considering the explanation submitted by the petitioner have cancelled the provisional selection of the petitioner vide proceedings dated 02.12.2019. Challenging the same, the present writ petition is filed.

6. Learned counsel appearing for the petitioner further contended that in the attestation form, the petitioner has disclosed about the pendency of the criminal proceedings against him. In the criminal case, there is nothing to substantiate the charge against

the petitioner, as none of the witnesses have supported the prosecution case. Counsel further submitted that due to pandemic situation, the trial in the criminal case is not being concluded and had the trial been concluded, then definitely the petitioner would have been acquitted in the said case. Therefore, appropriate orders be passed in the writ petition directing the respondents to re-consider the case of the petitioner for appointment to the post of Sipiendary Cadet Trainee for Reserve Sub-Inspector (Armed Reserve) SCTRSI (AR).

7. Learned Counsel for the petitioner further contended that in *Avtar Singh v. Union of India and others*¹, the Hon'ble Supreme Court had elaborately considered an identical issue wherein the Hon'ble Supreme Court at para '38' gave certain elaborate directions as to how the authorities have to deal in respect of involvement in criminal cases and whether there is a charge of moral turpitude or not? In view of the guidelines framed by the Hon'ble Supreme Court in the above said case, let the case of the petitioner also be considered in accordance with the judgment of Hon'ble Supreme Court in *Avtar Singh's case* (1 supra). He further contended that in *Avtar Singh v. Union of India and others*² at para '4' of the judgment, the Hon'ble Supreme Court has reiterated the very same issue in *Avtar Singh's case* (1 supra). Therefore, appropriate orders be passed in the writ petition directing the respondents to re-consider the case of the petitioner afresh in terms of the law laid down by the Hon'ble Supreme Court in above said cases and pass appropriate orders in accordance with law.

¹ (2016) 8 SCC 471

² Civil Appeal No.18798 of 2017 dt.15-11-2017
(arising from SLP (C) No.20525 of 2011 dt.21-07-2016)

8. Learned Special Government Pleader appearing for the respondents has contended that the information sought for from every selected candidate in the attestation form asking whether any criminal case is pending against them at any point of time, does not mean that it amounts to pendency of any criminal case only at the time of filling up of attestation form and the petitioner was not asked to give the status of pendency of criminal case as on the date of filling up of attestation form. Therefore, in view of the involvement of the petitioner in the criminal case, which is pending, the respondents have rightly rejected the case of the petitioner. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

9. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that the respondents have cancelled the provisional selection of the petitioner without following the guidelines issued by the Hon'ble Supreme Court in Avtar Singh's case (1 supra) and Avtar Singh's case (2 supra). Therefore, ends of justice would be met if the respondents are directed to consider the case of the petitioner in terms of the guidelines issued by the Hon'ble Supreme Court in the above two referred cases and the impugned order is liable to be set aside and accordingly it is set aside. The respondents are directed to examine the case of the petitioner in terms of the law laid down by the Hon'ble Supreme Court in Avtar Singh's case (1 supra) and Avtar Singh's case (2 supra) with respect to involvement in criminal case and pendency of the criminal case and pass appropriate orders in accordance with law within a reasonable

period of time, preferably within a period of four weeks from the date of receipt of a copy of this order.

10. With the above directions, the writ petition is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

25.11.2020
v v

