HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY ,THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO: 20741 OF 2020

Between:

Seelam Surendar Reddy, S/o Prabhakar Reddy, aged about 25 years, Occ.Unemployee, R/o.7-269, Narayanapuram Village, Thallada Mandal, Khammam District, Telangana State.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principle Secretary, Home Department, Secretariat Buildings, Hyderabad.
2. The Inspector of General of Police, Hyderabad.
3. The Commissioner of Police, Kammam, Khammam District.
4. The Telangana State Level Police Recruitment Board, Hyderabad. rep by its Chairman.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or a direction more particularly one in the nature of Writ of Mandamus, declaring the proceeding/Memorandum dt.14/09/2020 vide Rc.No.223/Rectt./Gen1.1/2019 issued by the 4th respondent in cancelling the provisional selection of the petitioner with Regd.No.31041544 as SCTPC (TSSP) in pursuance to the Recruitment Notification - 2018 despite the acquittal by the Honorable Addl. Judicial Magistrate of 1 Class in C.C.No. 666 of 2017, dt. 11/12/2019 by an reasonable doubts as illegal, contrary to law, contrary to the Judgment in C.C.No. 666 of 2017, dt. 11/12/2019 apart from violative of Article 14, 16 and 21 of the Constitution of India and consequently set-aside the same by directing the respondents to appoint the petitioner with Regd. No. 31041544 as SCTPC (TSSP) in pursuance to the Recruitment Notification - 2018 as per the procedure established by law.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to reconsider the case of the petitioner, Regd. No. 31041544 for appointment to the post of SCTPC (TSSP) by suspending the operation of the impugned memorandum dt.14/09/2020 vide Rc.No.223/Rectt./Gen1.1/2019 issued by the 4th respondent, cancelling the provisional selection of the petitioner to the post SCTPC (TSSP) in pursuance to the Recruitment Notification - 2018 pending disposal of the Writ petition in the interest of justice.

Counsel for the Petitioner : SRI G. TUHIN KUMAR
Counsel for the Respondent Nos.1 to 4: SPECIAL GP FOR HOME

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20741 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, declaring the proceeding/ Memorandum dt:14.09.2020 vide Rc.No.223/Rectt./Genl.1/2019 issued by the 4th respondent in cancelling the provisional selection of the petitioner with Regd.No.31041544 as SCT PC (TSSP) in pursuance to the Recruitment Notification - 2018 despite the acquittal by the Hon'ble Addl.Judicial Magistrate of I Class in C.C.No.666 of 2017, dt: 11.12.2019 by all reasonable doubts as illegal, contrary to law, contrary to the judgment in C.C.No.666 of 2017, dt: 11.12.2019 apart from violative of Articles 14, 16 and 21 of the Constitution of India and consequently set-aside the same by directing the respondents to appoint the petitioner with Regd.No.31041544 as SCT PC (TSSP) in pursuance to the Recruitment Notification - 2018 as per the procedure established by law and pass such other order or orders as deem fit and proper according to the facts of the case."

3. Heard Sri G.Tuhin Kumar, 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 selected for the post of Stipendiary Cadet Trainee - Police Constable (SCT PC), Telangana State Special Police (TSSP) on 24.09.2019. In the process of selection, he has to fill up one attestation form in the month of October, 2019 informing as to whether any criminal case is pending against him. Accordingly, he

has filed the said attestation form disclosing about the fact of pendency of a criminal case against him in C.C.No.666 of 2017 on the file of Additional Judicial Magistrate of First Class, Madhira, Khammam.

5. Learned counsel appearing for the petitioner contended that earlier, criminal proceedings were initiated against the petitioner in C.C.No.666 of 2017 on the file of Additional Judicial Magistrate of First Class, Madhira, Khammam, and the petitioner was acquitted in the said C.C. vide judgment dated 11.12.2019 and, therefore, at present, no criminal cases are pending against the petitioner. Be that as it may, the respondents have issued a Show-cause Notice on 19.02.2020 asking as to why the provisional selection of the petitioner could not be cancelled on the ground of his involvement in a criminal case and also pendency of the said criminal case. Pursuant to the said Show-cause Notice, the petitioner has submitted a detailed explanation on 13.03.2020 making it very clear that the criminal case which was pending against him ended in acquittal vide judgment dated 11.12.2019 and requested the respondents not to take any action against him pursuant to the Show-cause Notice dated 19.02.2020. But, the respondents, without considering the explanation submitted by the petitioner have cancelled the provisional selection of the petitioner vide proceedings dated 14.09.2020. Challenging the same, the present writ petition is filed.

6. Learned counsel appearing for the petitioner further contended that the petitioner has admittedly disclosed about the pendency of criminal case against him in the attestation form and

later the criminal case pending against the petitioner ended in acquittal vide judgment dated 11.12.2019. 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 Stipendiary Cadet Trainee – Police Constable (SCT PC), Telangana State Special Police (TSSP).

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 with respect to 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.

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

[1] (2016) 8 SCC 471
[2] Civil Appeal No.18798 of 2017 dtd.5-01-2017
(arising from SLP (C) No.20525 of 2011 dt.21-07-2016)

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, 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 canceled 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) in view of acquittal of the petitioner by the competent criminal court 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.

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The State of Telangana, Principal Secretary, Home Department, Secretariat Buildings, Hyderabad.
2. The Inspector of General of Police, Hyderabad.
3. The Commissioner of Police, Kammam, Khammam District.
4. The Chairman, Telangana State Level Police Recruitment Board, Hyderabad.
5. One CC to Sri G. Tuhin Kumar, Advocate [OPUC]
6. Two CCs to Special GP for Home, High Court for the State of Telangana at Hyderabad. [OUT]
7. Two CD Copies

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HIGH COURT

DATED:19/11/2020

ORDER

WP.No.20741 of 2020



ALLOWING THE WP

WITHOUT COSTS

pCMA

25/11/2020.