

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

THURSDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO: 24368 OF 2020

Between:

Ganaveni Thirupathi, S/o.G.Gangamallu, Aged 29 years, Occ.Un-Employee,
R/o.H.No.4-68, Gopulapur Village, Buggaram Mandal, Jagtial District. (Erstwhile
Karimnagar District)

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Home Department,
Secretariat, Hyderabad.
2. Telangana State Level, Police Recruitment Board (TSLPRB), Rep. by its
Chairman, Lakdi-ka-Pul, Hyderabad.

...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 any Writ, order or direction more especially one in the nature of Writ of Mandamus declaring the Impugned Memorandum in Rc.No.222/Rectt./Genl.1/2019, Dt.17/08/ 2020 of the 2nd Respondent, whereby cancelling the Provisional Selection of the Petitioner vide Reg.No.1216936 to the post of SCTPC (TSSP) pursuant to the Recruitment Notification with Rc.No.88/Rect./Admn.1/2018, Dt.31/05/2018 as illegal, arbitrary, unconstitutional and violation of Articles 14 and 16 of the Constitution of India and consequently by setting aside the Impugned Memorandum of the 2nd Respondent, Dt.17/08/2020, direct the Respondents to forthwith Consider and Appoint the Petitioner to the post of SCTPC (TSSP) pursuant to his Provisional Selection.

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 forthwith Consider and Appoint the Petitioner (Reg.No.1216936) to the post of SCTPC (TSSP) pursuant to his Provisional Selection in Recruitment Notification with Rc.No.88/Rect./Admn.1/2018, Dt.31/05/2018, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI C. HARI PREETH

Counsel for the Respondent No.1: SPECIAL GP FOR HOME

Counsel for the Respondent No.2: SRI M.V. RAMA RAO,

STANDING COUNSEL FOR TSLPRB

The Court at the admission stage made the following: ORDER

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.24368 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 any Writ, order or direction more especially one in the nature of Writ of Mandamus declaring the Impugned Memorandum in Rc.No.222/Rectt/Gen.1/2019, Dt 17/08/2020 of the 2nd respondent whereby cancelling the Provisional Selection of the Petitioner vide Reg No.1216936 to the post of SCTPC TSSP pursuant to the Recruitment Notification with Rc.No.88/Rect./Admn.1/2018 Dt 31/05/2018 as illegal, arbitrary un-constitutional and violation of Articles 14 and 16 of the Constitution of India and consequently by setting aside the Impugned Memorandum of the 2nd respondent Dt 17/08/2020 direct the respondents to forthwith consider and appoint the petitioner to the post of SCTPC (TSSP) pursuant to his Provisional Selection and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case."

3. Heard Sri C.Hari Preeth, 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 in Telangana State Special Police (herein after

referred to as "TSSP") on 24.09.2019. In the process of selection, he has to fill up one attestation form informing as to whether any criminal case is pending against him and he has filled the said attestation form making it very clear that no criminal case is pending against him.

5. Learned counsel appearing for the petitioner contended that earlier the criminal proceedings were initiated against the petitioner in S.C.No.128 of 2016 and the competent criminal Court acquitted the petitioner on 08.04.2019 itself and, therefore, as on the date of filling up of attestation form, no criminal case is pending against the petitioner. Therefore, the petitioner has not disclosed about the said criminal case wherein the petitioner was acquitted. Be that as it may, the respondents have issued a Show-cause Notice on 25.02.2020 asking him as to why the provisional selection of the petitioner should not be cancelled on the ground of suppression of pendency of criminal case against him. Pursuant to the said Show-cause Notice, the petitioner has submitted a detailed explanation on 07.03.2020 making it very clear that as on the date of submission of attestation form, no criminal case is pending against him and requested the respondents not to take any action against him pursuant to the Show-cause Notice dated 25.02.2020. But, the respondents, without considering the explanation submitted by the petitioner have cancelled the provisional selection of the petitioner vide proceedings dated 17.08.2020. Challenging the same, the present writ petition is filed.

6. Learned counsel appearing for the petitioner further contended that the petitioner has not suppressed anything, as admittedly, no criminal case is pending against him as on the date of filling up of attestation form. The petitioner has not disclosed about criminal case registered against him. 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 (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 the suppression of facts in respect of minor 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

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)

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 from every selected candidate in the attestation form asking whether any criminal case is pending against the petitioner, at any point of time, it 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, the petitioner has, admittedly, suppressed about pendency of a criminal case against him and the same amounts to suppression of facts. Therefore, 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) in respect of suppression of facts and also 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.

11. Pending miscellaneous petitions, if any, shall stand closed.

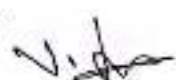
SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad.
2. The Chairman, Telangana State Level, Police Recruitment Board (TSLPRB), Lakdi-ka-Pul, Hyderabad.
3. One CC to Sri. C. Hari Preeth, Advocate [OPUC]
4. Two CCs to GP for Home, High Court for the State of Telangana. [OUT]
5. Two C.D. Copies

Prk



HIGH COURT

DATED:31/12/2020

ORDER

WP.No.24368 of 2020



Allowing the WP.
without costs.

⑦ VW
8/1/21