

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CIVIL WRIT PETITION NO.1839 OF 2020
DATE OF DECISION: JANUARY 24, 2020

Surinder Mohan and another

.....Petitioners

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Himanshu Chhabra, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court, challenging the action of the respondents in cancelling the selection, which was in pursuance to the advertisement dated 11.03.2019 (Annexure P-1) issued under the Punjab State Rural Livelihood Mission purely on contract basis.

Petitioners asserts that in pursuance of the said advertisement, petitioner No.1 had applied for the post of Block Programme Manager (BPM) and petitioner No.2 applied for the post of MIS (Assistant) respectively. After the selection process, both these petitioners were selected and further process for their appointment was initiated but prior to they being allowed to join, the whole process of selection, which was initiated in pursuance of the advertisement dated 11.03.2019 (Annexure P-1) stands cancelled vide communication dated 10.12.2019 (Annexure P-14) issued by the Additional Deputy Commissioner (Development), Sangrur.

Petitioners thereafter had approached this Court by filing writ petition in this Court, wherein directions were issued for considering the representation of the petitioners as also treating the writ petition as a supplementary representation and pass a speaking order thereon. The said representation has been considered and decided by the Deputy Commissioner, Sangrur vide order dated 09.01.2020 (Annexure P-15). This order has also been impugned by the petitioners by way of present writ petition.

It is the contention of learned counsel for the petitioners that the respondents, while passing the order dated 10.12.2019 (Annexure P-14), whereby the recruitment process was cancelled, have not assigned any reason. It has further been asserted that once the selection process has been initiated and has reached at the stage where even appointment letters were issued and only posting orders were awaited, the respondents could not have proceeded to cancel the said process. In any case, they were required to give reasons for cancellation of the selection process. This, the counsel contends, is not sustainable and, thus, the impugned letter dated 10.12.2019 (Annexure P-14) and order dated 09.01.2020 (Annexure P-15) deserve to be set-aside.

I have considered the submissions made by counsel for the petitioners and with his assistance have gone through the records of the case.

The prayer, as made by learned counsel for the petitioners, cannot be accepted in the light of the settled proposition of law that mere selection on the post does not confer any right and it is the choice of the employer, whether to issue appointment letter to a selected candidate or not,

unless there is a violation of Article 14 of the Constitution of India. In the present case, admittedly none of the persons, who had been selected in the process in pursuance of the advertisement dated 11.03.2019 (Annexure P-1) has been appointed. Therefore, the plea of the petitioners that the respondents were required to give reasons for such cancellation of recruitment process cannot be accepted.

Petitioners only have a right of consideration and no vested right for appointment, especially keeping in view the fact that the respondents have cancelled the recruitment process itself. The position of law has been crystallized by the Constitutional Bench of the Apex Court in **Shankarsan Dash Vs. Union of India 1991 (3) SCC 47** wherein it has been held that candidate whose name appears in the merit list, cannot have an indefeasible right of appointment and the State is under no legal duty to fill up all the vacancies. However, the only exception was that the State should not act in an arbitrary manner. Relevant observation reads as under:

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for

appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in State of Haryana v. Subhash Chander Marwaha and Others, (1974) 1 SCR 165, Miss Neelima Shangla v. State of Haryana and Others, (1986) 4 SCC 268, or Jitendra Kumar and Others v. State of Punjab and Others, (1985) 1 SCR 899.”

A similar view was taken in ***Raj Rishi Mehra & others Vs. State of Punjab & another (2013) 2 SCC 243***. Relevant observation reads as under:

“15. The question whether the candidates whose names are included in the waiting list are entitled to be appointed against the unfilled posts as of right is no longer res integra and must be answered in negative in view of the judgments of this Court in Union of India v. Ishwar Singh Khatri 1992 Supp (3) SCC 84, Gujarat State Dy. Executive Engineers’ Association v. State of Gujarat and others 1994 Supp (2) SCC 591, State of Bihar v. Secretariat Assistant Successful Examinees Union 1986 and others (1994) 1 SCC 126, Prem Singh and others v. Haryana SEB and others 1996) 4 SCC 319, Ashok Kumar and others v. Chairman, Banking Service Recruitment Board and others (1996) 1 SCC 283, Surinder Singh and others v. State of Punjab and another (1997) 8 SCC 488, Madan Lal and others v. State of J&K and others (1995) 3 SCC 486, Kamlesh Kumar Sharma v. Yogesh Kumar Gupta and others (1998) 3

SCC 45, State of J&K and others v. Sanjeev Kumar and others (2005) 4 SCC 148, State of U.P. and others v. Rajkumar Sharma and others (2006) 3 SCC 330, Ram Aytar Patwari and others v. State of Haryana and others 2007) 10 SCC 94 and Rakhi Ray and others v. High Court of Delhi and others (2010) 2 SCC 637.”

In view of the above, finding no merit in the writ petition, the same stands dismissed.

January 24, 2020
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(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No