

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 1049 of 2013**

vijay Kumar Kaiwart S/o Shri Ram Singh Kaiwart,
Aged about 38 years, R/o Village Godhi, Post
Godhi, Rajgamar, Police Station Balko Nagar,
Tahsil and Distt. Korba, Chhattisgarh, Pin
495683.

---Petitioner

Versus

- 1.State of Chhattisgarh, Through Secretary,
Panchayat and Rural Engineering Services, D.K.S.
Bhawan, Raipur, Distt. Raipur, Chhattisgarh.
- 2.Development Commissioner, Office of Development
Commissioner, Raipur, Chhattisgarh.
- 3.Engineer-in-Chief, Rural Engineering Services,
Office of Development Commissioner, Raipur,
Chhattisgarh.
- 4.Praveen Kumar Singh S/o Shri Shankhleshwar Singh,
Aged about 34 years, R/o Hospital Colony,
Community Health Centre, Surajpur, Distt.
Surajpur, Chhattisgarh.
- 5.Amrutlal Kewant S/o Shri Mohit Ram Kewant, Aged
about 35 years, R/o Flat No. 504, Block No. 26,
Ashok Ratna, VIP Estate, Vidhan Sabha Road,
Khamhardeeh, Raipur, Distt. Raipur, Chhattisgarh.
- 6.Vibhor Sahu S/o Shri Dhaneshwar Ram Sahu, Aged
about 36 years, R/o House No. C/9, Khandelwal
Colony, Kamla College Road, Rajnandgaon, Distt.
Rajnandgaon, Chhattisgarh.

7. Evin Vergis S/o K.V. Vergis, Aged about 35 years,
R/o T.R.T.E. 99, Block No. 9 ACC Colony Jamul,
Bhilai, Distt. Durg, Chhattisgarh.

8. B. Chandra Shekhar S/o B. Uma Maheshwar Rao, Aged
about 36 years, R/o Quarter No. 29/B Railway
Colony, Bhilai 3, Distt. Durg, Chhattisgarh.

---Respondents

For Petitioner	:- Mr. Manoj Paranjpe, Advocate
For Respondents 4 – 8	:- Mr. Nishikant Sinha, Advocate
For State	:- Mr. Soumya Rai, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/09/2021

1. By way of this writ petition, the petitioner seeks to challenge the appointment of respondents No. 4 to 8 on the post of Sub-Engineer (Civil) in the recruitment held on 23/02/2011 principally on the ground that respondents No. 4 to 8 could not produce their educational certificates right in time but they have still been appointed whereas the petitioner was found eligible for the said post but he has not been appointed.

2. Mr. Manoj Paranjpe, learned counsel for the petitioner, would submit that despite the petitioner being found eligible for appointment on the post of Sub-Engineer (Civil), he has not

been appointed whereas respondents No. 4 to 8 did not even produce their educational certificates right in time yet they have been appointed, which is illegal and bad in law, as such, their appointment is liable to be set aside.

3. Mr. Soumya Rai, learned State counsel for respondents No. 1 to 3 and Mr. Nishikant Sinha, learned counsel for respondents No. 4 to 8, would submit that the appointment of respondents No. 4 to 8 is strictly in accordance with law and even if their appointment was illegal and bad in law and it is set aside, then too, the petitioner cannot be appointed on the said post being unqualified and he would not get any relief and as such, this writ petition would not be maintainable.

4. I have heard learned counsel for the parties in length and perused the records.

5. True it is that appointment of respondents No. 4 to 8 on the post of Sub-Engineers (Civil) has been challenged by the petitioner on different grounds including that they could not produce their educational certificates right in time, but the fact remains that petitioner as well as respondents No. 4 to 8, all of them appeared for

the recruitment under OBC category and as per merit list, the last candidate under OBC category selected for the said post was ranked 353 whereas petitioner stood ranked at 700 in the merit list, therefore, even if the appointment of respondents No. 4 to 8 is set aside/quashed, then also, the petitioner would not get any relief.

6. The Supreme Court, in the matter of Dr. N.C. Singhal v. Union of India¹, relying upon its earlier pronouncement in the matter of Chitra Ghosh v. Union of India², has clearly held that a person who is not qualified for promotion and will not be benefited if the promotions of others are quashed, is least competent to challenge the promotions. It was held as under :-

"21. Having examined the challenge to the promotion of respondents 4 to 24 on merits, it must be made clear that the appellant is least qualified to question their promotions. Each one of them was promoted to a post in supertime grade II in a specialty other than ophthalmology and appellant admittedly was not qualified for any of these posts. Even if their promotions are struck down appellant will not get any post vacated by them. "

7. In the instant case, even though the appointment of respondents No. 4 to 8 on the post of Sub-Engineer (Civil) is set aside then also the petitioner would not be qualified for appointment

1 (1980) 3 SCC 29

2 (1969) 2 SCC 228

on the said post as the last candidate under OBC category selected for the said post was ranked 353 whereas petitioner stood ranked at 700 in the merit list. As such, in view of the aforesaid pronouncement of the Supreme Court and in view of the fact that petitioner will not get the post vacated (if any) by respondents No. 4 to 8, the appointment of respondents No. 4 to 8 cannot be quashed and no relief can be granted to the petitioner.

8. Accordingly, this writ petition, being devoid of merits, deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet