

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.412 of 2016**

1. Sunil Kumar Gupta S/o. Late Shri Basant Gupta, Aged About 36 Years R/o Village Banda, District Surguja Chhattisgarh
2. Praveen Kumar Pandey, S/o. Ravindra Nath Pandey, Aged About 34 Years R/o. Mahalpara Baikunthpur, Post Korea Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through The Secretary Cooperative- Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Registrar, Cooperative Societies, Block- B, Second And Third Floor, Office of Head of Department, Indravati Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Chhattisgarh State Cooperative Marketing Federation Limited Through The Managing Director, Chhattisgarh Cooperative Marketing Federation Head Office 880, Civil Lines, District Raipur Chhattisgarh
4. Chairman, Chhattisgarh State Cooperative Marketing Federation Limited Through The Managing Director, Chhattisgarh Cooperative Marketing Federation Head Office 880, Civil Lines, District Raipur Chhattisgarh
5. Chhattisgarh Professional Examination Board, Through Controller, Pension Bada, Tehsil And District Raipur Chhattisgarh

---- Respondents

For Petitioners : Shri Shreyankar Nandy, Advocate on behalf of
Shri Anoop Majumdar, Advocate.

For Respondent/State : Shri Sudeep Agrawal, Deputy Advocate General

For Respondent No.3 & 4 : Shri Prafull N. Bharat, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****P.R. Ramachandra Menon, Chief Justice****01.02.2021**

1. The Petitioner has moved this Court with the following prayers :

“10.1) That the petitioner most humbly respect fully prays to this Hon'ble Court to issue appropriate writ/order/direction to declare the Rule 8(A) and

amendment dated 05.08.2015 in Rule 11 (E) of The Chhattisgarh Cooperative Marketing Federation Service Rule as unconstitutional and Ultra Vires.

10.2) That the Petitioner most humbly and respectfully prays to this Hon'ble Court to issue appropriate writ/order/direction to the respondent authorities quash the entire recruitment process that has been initiated by virtue of advertisement dated 06.08.2015.

10.3) That the petitioner most humbly and respectfully prays to this Hon'ble Court to issue appropriate writ/order/directions to the respondent authorities to initiate fresh recruitment process for the posts of Assistant Account Officer and Assistant Manager in the respondent Federation.

10.4) Any other relief or directions which this Hon'ble Court may deem just and fit to be issued to respondents under facts and circumstances of the case.”

2. The matter was being listed before this Court right from the day one i.e. 09.02.2016 and finally, it was taken up for consideration on 14.07.2017, when the following order was passed :

“Shri Anoop Mazumdar, Advocate for the Petitioners.

Shri Y.S. Thakur, Additional Advocate General for the State.

We have heard certain submissions made by the learned counsel for the Petitioners and the learned Additional Advocate General. We have queried that all requisite persons have been arrayed as respondents, it is pointed out by the learned counsel for the

Petitioner that through order dated 13.06.2016 appointments, if any, made shall be subject to the final outcome of this petition.

The fundamental issue raised in this writ petition is as to whether a particular prescription as to reservation on communal basis is sustainable. Selection process is complete and apparently appointments have been made. Therefore, we leave open the right of the Petitioners to seek for impleadment of any person who may be adversely affected by the impugned decision, notwithstanding the order dated 13.06.2016. Subject to that list this matter in the final hearing list in the week commencing 18.09.2017.”

3. It is obvious that considering the nature of challenge with regard to the relevant rules and also as to the appointment given since the process of selection was already noted as completed, it was very much essential for the Petitioners to implead the affected persons in the party array, for which opportunity was given as per the said order dated 14.07.2017. The matter again came up for consideration on 03.10.2018, but on that day, no one appeared on behalf of the Petitioners and hence the matter was dismissed for non-prosecution. Thereafter, MCC No.18 of 2020 was filed to restore the matter and on 10.01.2020, the matter was restored to its original file. The matter was again listed on 11.02.2020 when the learned counsel for the Petitioners submitted that he was having “no instructions from the client”. In the said circumstance, one more opportunity was sought for to cure the defect, which was granted and the matter was adjourned accordingly.

4. Today, the position remains to be the same. No positive steps have been taken to implead the affected persons in the party array and in the said circumstance, we are not in a position to proceed with the matter any further, in view of the nature of reliefs sought for. Since no instructions as stated as forth-coming from the Petitioners, as already put-forth by the learned counsel and noted in the order dated 11.02.2020, we dismiss the writ petition for want of prosecution.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Anu