

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 63 of 2021**

{Arising out of Order dated 15.02.2021 passed in Writ Petition (S) No. 879 of 2021 by the learned Single Judge}

1. Somlata Shukla W/o Neeraj Shukla, aged about 45 years R/o Sanjay Nagar, College Road, Kurud District Dhamtari Chhattisgarh
2. Dr. Bhavana Shrivastava D/o Dr. A.K. Shrivastava aged about 45 Years R/o Saraswatichandra Clinic, Raipur Road Kawardha, District Kabirdham Chhattisgarh
3. Dr. Savita Bhoi W/o Nishant Mishra aged about 35 years R/o LIG - 180, Housing Board Colony, Near Siyan Sadan Tatibandh, Raipur District Raipur Chhattisgarh
4. Dr. Anjuli Mishra W/o Amit Kumar Mishra aged about 36 years R/o House No. 64, Near National Convent School, Sundar Nagar, Raipur District Raipur Chhattisgarh
5. Pooja Sonkar W/o Nand Kishor Sonkar aged about 35 years R/o House No. 0667, Sonkar Para, Purani Basti, Near Satti Chabutara, Raipur, District Raipur Chhattisgarh
6. Dr. Abhilasha Sharma W/o Animesh Sharma, aged about 36 years, R/o 54/926, Near Shitala Mandir, Danganiya, Sundar Nagar, Raipur, District Raipur Chhattisgarh
7. Dr. Jaya Devi Sahu W/o Himesh Kumar Sahu, aged about 34 years, R/o Line Para Ward No. 10, Tehsil And Post Nagari, District Dhamtari Chhattisgarh
8. Dr. Gopa Sharma W/o Anurag Sharma, aged about 46 years, R/o Sanjay Nagar, College Road, Kurud, District Dhamtari Chhattisgarh.

---- Appellants**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Higher Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh.
2. Commissioner, Higher Education Department, Raipur District Raipur Chhattisgarh.
3. Secretary Public Service Commission, Shankar Nagar Marg Raipur, District Raipur Chhattisgarh.

---- Respondents

For Appellants : Shri C. Jayant K. Rao, Advocate.
For Respondents/State : Shri Sudeep Agrawal, Deputy Advocate General
For Respondent/PSC : Shri Aman Pandey, Advocate on behalf of Shri Ashish Shrivastava, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per P.R. Ramachandra Menon, Chief Justice

26/02/2021

1. The unsuccessful candidates who could not clear the objective type test (multiple choice – OMR test) to get a call for the interview for selection to the post of Assistant Professor (Home Science), are the Appellants, having lost the first round resulting in dismissal of the writ petition filed for cancelling the entire test/recruitment process.
2. As put forth by Shri C. Jayant K. Rao, the learned counsel, the Appellants/Writ Petitioners are duly qualified in all respects who had applied for the posts of Assistant Professor (Home Science) in response to the advertisement dated 23.02.2019 issued by the 3rd Respondent-Chhattisgarh Public Service Commission. It is stated that, pursuant to a representation filed to have the syllabus of Home Science subject also to be issued in Hindi, a corrigendum notification was issued on 23.11.2019 and the syllabus was given translated into Hindi as well. The objective type examination was conducted on 05.11.2020; but the question paper was published only in English language and not in Hindi. Since the Appellants/Writ Petitioners had pursued their studies in Hindi medium and the need to issue the syllabus in Hindi as well was realised and recognised by the 3rd Respondent, the question paper for Home Science examination also should have been set in Hindi as well. Since Annexure P/3 question paper for Home Science was only in English, much prejudice has been caused to the Appellants and they could not perform well, which made them to challenge the selection

proceedings. It was also contended that in respect of some other subject like Mathematics, the questions were set both in English and Hindi, as evident from Annexure P/4. In the said circumstance, the course pursued by the 3rd Respondent in proceeding with the selection by identifying the candidates to be called for interview as per Annexure P/6 is liable to be interdicted; which made them to file the writ petition with the following prayers:

"10.1 The Hon'ble Court may kindly be pleased to set aside the entire recruitment process to the post of Assistant Professor, Home Science conducted by the respondent authorities.

10.2 The Hon'ble Court may kindly be pleased to direct the respondent authorities to further conduct the examination of Assistant Professor, Home Science.

10.3 The Hon'ble Court may kindly be pleased to direct the respondent authorities to consider the petitioners for the post of Assistant Professor, Home Science.

10.4 This Hon'ble Court may kindly be pleased to grant any other relief(s)/writ(s), order(s) in favour of the petitioner, which the Hon'ble Court deemed fit & just in the facts & circumstances of the case, including awarding of the cost to the petitioner."

3. The prayers were vehemently opposed from the part of the Respondents pointing out that the syllabus was given translated in Hindi only to help the candidates to study better; which by itself would not give any right to the Petitioners to contend that the question papers should also have been set in Hindi. It was pointed out that, on previous occasions also, the test for the post of Assistant Professor (Home Science) was conducted in English and there was no deviation from any rule, guideline or practice. It was also pointed out that there was no instance of any *malafides* or arbitrariness in conducting the examination and as such, no interference was warranted. The version of the Respondents was accepted and the writ petition was dismissed by the learned Single Judge; the correctness of which is called in question in this appeal.

4. During the course of hearing, a specific query was put by this Court to the learned counsel for the Appellants as to whether the contention of the Appellants and the relief sought for were supported by any provision of law; which came to be answered in the 'negative'. In the absence of any rule mandating the requirement to conduct the test in the local language, it cannot be said that there is violation of any provision of law; nor is there any infringement of the principles of natural justice.
5. It is worthwhile to note that the test conducted by the 3rd Respondent is of 'objective type' (multiple choice questions) and the candidates were required only to bubble the circle in the Answer Sheet, based on the option among the four answers given under each question. There were 100 questions, each carrying 2 marks, to be cleared within a time span of two hours. There was a provision for 'negative marking' as well, to the extent that 1/3 mark will be deducted for each wrong answer. It is also relevant to note that even in Annexure P/3 question paper relating to the post of Assistant Professor (Home Science), the particulars to be filled up in the relevant columns on the face sheet were clearly given both in English and Hindi. Similarly, the "Instructions for the candidates" were also printed both in English and Hindi, besides the 'Notes 1 to 3' contained on page 2, given both in English and Hindi. This being the position, no candidate can ever say that he/she did not properly understand the instructions because of any obscurity in the terminology used by the Chhattisgarh Public Service Commission.
6. Coming to the questions, as mentioned already, multiple choices (four) were given as answers to each question and the role of the candidate was only to identify the correct answer and bubble the relevant circle in the answer-sheet. Since the questions were mostly of single/short sentence, no difficulty was there in reading and understanding the question and to identify the answer. A mere perusal of the said questions and answers will reveal

that, to understand the questions and to identify the answer, nobody needs to be a specialist in English language. Even a school going student can read and understand the questions as well as the answers, though he may not be in a position to identify the correct answer.

7. It has to be borne in mind that the examination conducted was for the post of Assistant Professor (Home Science) and not for appointment to any Class IV post. There is no case for the Appellants that they have not studied English in their entire curriculum, but for their contention that they were pursuing their studies in Hindi medium. Even in the Hindi medium schools, English is the 'second language', being taught from Class VI onwards (which now is reportedly from the Class I onwards). Same is the position at the '+2 level/pre-degree level'. English, as a language, has to be studied for graduation as well. In the case of the Appellants herein, all of them are Post Graduates and out of the 8 Appellants, 6 of them have obtained Doctorate Degree (Ph.D) as well. It is really hard to hear the Appellants that, despite their Post Graduate qualifications and the Doctorate degrees, they were finding it difficult to read and understand the multiple choice questions and answers given, to identify the correct answers for such questions. This Court does not intend to say anything further, lest it should adversely affect the future of the Appellants.
8. As mentioned already, the written examination was conducted on 05.11.2020. It remains a fact that, it was 3 ½ months after the examination held on 05.11.2020, that they filed the writ petition on 29.12.2012 *i.e.* after coming to know that they have not been included in Annexure P/6 dated 19.01.2021, shortlisting the candidates for Interview. In other words, the Appellants are challenging the selection process (seeking to cancel the examination for not having set the question papers in Hindi) after losing the selection. It is settled law, that nobody can challenge the selection process after participating in the selection and after losing the same. We find support

from the rulings rendered by the Apex Court in ***Manish Kumar Shahi v. State of Bihar & Others*** {(2010) 12 SCC 576}, ***Vijendra Kumar Verma v. Public Service Commission, Uttarakhand & Others*** {(2011) 1 SCC 150} and ***D. Sarojakumari v. R. Helen Thilakom & Others*** {(2017) 9 SCC 478}.

9. In the above facts and circumstances, we do not find even an iota of merit in the appeal. It stands dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE