

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1799 of 2021**

Naik Dhanashri Dinesh W/o Abhay Singh Chouhan, Aged About 45 Years, R/o House No. MIG 1028, Aditya Nagar, Durg, District Durg Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, School Education Department, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Director, Directorate Of Public Education, Indravati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Chhattisgarh Professional Examination Board, Raipur, Vyapam Bhavan, North Block Sector - 19, Atal Nagar, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Anoop Majumdar, Advocate
For State	:	Ms. Akanksha Jain, Dy. Govt. Advocate
For Respondent no.3	:	Dr. Saurabh Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17.03.2021**

1. The grievance of the petitioner in the present writ petition is the non-consideration of the petitioner's request for change of option for the cadre to which she has made an application for recruitment to the post of Lecturer(English).
2. The case of the petitioner in brief is that the respondent no.3 had issued an advertisement on 09.03.2019 for filling up of various posts

including that of Lecturer (English). The petitioner applied for the said post of Lecturer (English). In the application form, the option was provided to the candidates to opt either T Cadre or E Cadre or both the Cadres. So far as the petitioner is concerned, she had opted E Cadre. According to the petitioner, the third option of both the cadres was not being accepted because of certain technical glitch at the time when the petitioner was filling up the application form. The petitioner had sent an email in this regard as early as on 05.02.2019 but the same till date has not been considered by the authority concerned.

3. The grievance of the petitioner now is that the candidates who are less meritorious as compared to the petitioner (who was placed in the overall merit at 225) only for having opted "both the cadres" have now got the advantage of consideration for recruitment. Thereby the petitioner has been left out for being considered only on the ground that she has opted for E cadre. The second contention of the petitioner is that the option was only as a matter of preference and that if the petitioner was not found suitable or meritorious in the cadre in which she had given preference, she ought to have been considered for the other cadre.
4. Learned counsel for the respondent no.3, on the other hand, opposing the petition submits that when an advertisement itself was issued, there were specific instructions given to the candidates to first clearly understand the instructions and then fill up the form. Counsel for the respondent no.3 referred to an instruction issued by the department which in very categorical terms reflects that a subsequent clerical error or any other mistake would not be permitted to be rectified in the application form and also in the OMR sheet which the candidates

submit. Therefore, in the event of the petitioner having not opted “both the cadres” and having opted only “E cadre” the petitioner cannot have now the advantage of switching over the from the option that he had exercised at the first instance. Counsel for the respondent no.3 submits that neither the advertisement nor the rules provides for any such option to the candidates for approaching the authorities for correction of their application form so far as the change of cadre and any other clerical errors/mistakes are concerned. In the absence of any rules, the authorities would not be in a position to accept the contention of the petitioner.

5. Having heard the contentions put forth on either side and on perusal of the record, admittedly the petitioner, at the first instance, had filled up the option of “E Cadre”. Though there is a reference of an email being sent by the petitioner at a subsequent date before the last date of filling up the form, the fact still remains that the procedure or system does not permit any correction in this regard to be made or carried out. That in the absence of any rule provision or instruction permitting correction, the demand of the petitioner for change of option could not have been accepted and the claim of the petitioner could be strictly considered against the option that she had at the first instance opted for.
6. The second ground of the petitioner of the option being only a preference also may not be acceptable for the reason that admittedly there are two cadres in the department of E and T cadre. Therefore, option was to be made against a specific Cadre i.e. Education Cadre E or the Tribal Cadre T for which the advertisement was issued, however, there was a third option of preferring “Both Cadres” which was also left open for the candidates at the time of filling up of the application form.

7. For all the aforesaid reasons, this Court does not find any strong case made out by the petitioner calling for issuance of a writ in favour of the petitioner. The writ petition thus fails and is accordingly dismissed.

**Sd/-
P. Sam Koshy
Judge**