

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 1 of 2021**

{Arising out of order dated 17.11.2020 passed by the learned Single Judge in Writ Petition (S) No. 4651 of 2020}

- Bhivesh Jain, S/o Shri Prabhuram Jain, aged about 20 years, R/o Village & Post – Kokpur, Tehsil & District – North Bastar Kanker (C.G.). Pin Code – 494334.

---- Appellant

Versus

1. State of Chhattisgarh, Through: The Secretary, Department of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District – Raipur (C.G.). Pin Code – 492002.
2. Director, Directorate Health Services, Indrawati Bhawan, Third Floor, Atal Nagar, Nava Raipur, District – Raipur (C.G.). Pin Code – 492002.
3. Chief Medical Health Officer (CMHO), O/o Chief Medical Health Officer (CMHO), Kanker, District – North Bastar Kanker (C.G.). Pin Code – 494334.

---- Respondents

For Appellant	:	Shri Abhyuday Singh, Advocate.
For Respondents/State	:	Shri Ashish Tiwari, Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Judgment on Board****Per P. R. Ramachandra Menon, Chief Justice****14.01.2021**

1. Interference declined by the learned Single Judge to entertain the relief sought for in the writ petition made the writ petitioner to approach this Court by filing this writ appeal.

2. The prayers in the writ petition are in the following terms:

a) Call for the entire records pertaining to the present case.

b) Issue *Writ of Certiorari* quashing and setting aside the impugned Notice dated 21.10.2020 (Annexure-P/1) whereby Petitioner's Objection with categoric submission that due to inadvertence at the Choice Centre in filling up of the Petitioner's Application, the Caste of the Petitioner has been entered as '*General Category*' in place of '*OBC Category*' & therefore, requested for Rectification in the Petitioner's Application by treating the Caste of the Petitioner as '*OBC Category*' in place of '*General Category*' which was entered due to inadvertence, has been rejected/turned.

c) Issue *Writ of Mandamus* directing the Respondent Authorities to consider the Petitioner's candidature for Appointment on the post of Rural Health Convener (MPW) by treating the Petitioner to be an OBC (Other Backward Class) candidate.

d) Grant the cost of the petition to the Petitioner.

e) Grant any other relief as deemed fit and proper in the facts and circumstances of the case.”

3. The case advanced by the Appellant/Writ Petitioner was that pursuant to Annexure P/2 advertisement issued on 14.08.2020 by the 2nd Respondent/Directorate of Health Services, Chhattisgarh, Raipur for filling up the post of 'Rural Health Convener (MPW-Multi Purpose Health Worker)' reserving one post earmarked to be filled up from persons who belong to 'OBC' (Other Backward Category) in the District Kanker, the Appellant/writ Petitioner submitted application online, as specified in the advertisement. The case of the Appellant/writ Petitioner is that though he belongs to 'OBC Category' and is a resident of the District Kanker as evident from Annexure P/3 certificate issued by a Competent Authority, while making the entries in the application submitted online, it so happened that the caste status of the Appellant was shown as in the 'General Category' instead of 'OBC Category'. It is the case of the Appellant/Writ Petitioner, that because of the Covid-19 pandemic and

such other reasons, he had to approach a Choice Centre for uploading the details in the application. However, since there was server problem, he had to leave the Choice Centre after completing the formalities and leaving the application with the said Centre for uploading. It is the case of the Appellant/writ Petitioner that he came to know about the mistake in effecting the entry as to the caste status only later and though he wanted to submit a rectified application with correct details, he could not do so, as there was no such provision for any such rectification. This made the Appellant/writ Petitioner to file a representation before the competent authorities requesting to effect the rectification and to treat the caste status of the Appellant/Writ Petitioner as of the 'OBC Category' in place of 'General Category', which came to be entered due to an inadvertent mistake.

4. On publishing Annexure P/6 merit list inviting objections, the Appellant/Writ Petitioner preferred his objection vide Annexure P/7 with reference to his actual caste status. However, as per Annexure P/1 proceedings dated 21.10.2020, the Appellant/writ Petitioner was let known that his objection to change the caste status was turned down which made him to challenge the same by filing the writ petition as mentioned above.
5. The learned Single Judge heard the matter in detail and observed that the Annexure P/2 advertisement was very specific casting the whole responsibility upon the applicants who were to make the necessary entries correctly in the online application, making it clear that no application for correction would be entertained. The relevant clauses in the advertisement vide clause 26, 27 and 28 were extracted in paragraph 3 and it was observed in paragraph 4 that in view of the specific

stipulation in the advertisement, no interference could be called for, besides holding that there was no provision which would permit the candidate for correction of application form at a later stage. It was accordingly that the interference was declined and the writ petition was dismissed as devoid of any merit, correctness of which is put to challenge in this appeal.

6. Shri Abhyuday Singh, the learned counsel appearing for the Appellant made his level best to persuade this Court to interdict the verdict passed by the learned Single Judge and to grant the relief. However, in response to a specific query raised by this Court as to whether there was any provision either in the advertisement or under any law to get the caste status of the applicant changed, once it is filled up in a particular manner, the learned counsel fairly conceded that there was no provision.
7. In the absence of any provision enabling a candidate to get the particulars already stated in the application form to be corrected at a later stage, it cannot be said that there is any duty upon the Respondents to consider the grievance and to have it acted upon by causing the correction. When there is no such duty, no writ of mandamus can be issued by this Court as Annexure P/1 issued by the Respondents stands unassailable in view of the specific clauses in the advertisement as referred to by the learned Single Judge in paragraph 3. Insofar as there is no dispute to the fact that the advertisement clearly stipulated that it shall be for the applicant to submit the entries online correctly and that if any mistake occurs, it will not be permitted to be corrected later, the course pursued by the Respondents in dealing with the grievance projected by the Appellant/Writ Petitioner cannot be said as wrong or unsustainable in any manner. This alone has been declared by the

learned Single Judge while declining interference and dismissing the writ petition. There is no violation of any of the principles of natural justice as well. In the said circumstances, we do not find any tenable ground to interdict the verdict passed by the learned Single which is well within the four walls of law.

8. The appeal fails. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge