

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 8 of 2021**

*{Arising out of order dated 15.12.2020 passed by the learned Single Judge in
Writ Petition (S) No. 8066 of 2018}*

- Pankaj Mire, S/o Shri Mahesh Mire, aged about 34 years, Presently
Posted as District Co-ordinator, R/o Panna Nagar Jarhabhata, Bilaspur,
Police Station Civil Line, Tehsil and District Bilaspur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, Through its Secretary, Department of Panchayat
and Rural Development, Secretariat, Mahanadi Bhawan, P.S. and Post
Rakhi, Atal Nagar, Raipur, District Raipur (C.G.)
2. Durgesh Sharma, S/o Shri Ramanug Sharma, aged about 29 years, R/o
Village-Dullapur, Post-Raveli, PS Piparia, Tehsil and District Kabirdham
(C.G.)
3. Director, Prime Minister Housing Planning (Rural) Block No. 2, Room
No.33 (CVI), Indravati Bhawan, PS and Post Rakhi, Atal Nagar, Raipur,
District Raipur (C.G.)
4. Chief Executive Officer (CEO), Zila Panchayat Kabirdham, District
Kabirdham (C.G.)

---- Respondents

For Appellant	:	Shri Rohit Sharma, Advocate.
For Respondent/State	:	Shri Siddharth Dubey, Deputy Government Advocate.
For Respondent No. 2	:	Shri H.B. Agrawal, Senior Advocate with Ms. Preeti Yadav, 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

13.01.2021

1. Whether rules of the game can be changed after commencement of the game, is the question involved in this appeal. The challenge raised by the Appellant is against the verdict passed by the learned Single Judge, whereby the appointment given to the Appellant was caused to be cancelled for giving appointment to the 2nd Respondent, holding that the same was given to the Appellant contrary to the terms notified in the advertisement.
2. The sequence of events shows that an advertisement was issued by the 3rd Respondent on 26.04.2017 for filling up the post of 'District Coordinator'. It was specifically mentioned in the said advertisement that an aspirant would be permitted to apply to the post only in 'one district' and that the candidature will not be considered if they apply for the post in more than 'one district'. Pursuant to the advertisement, both the Appellant and the 2nd Respondent applied for the post of 'District Coordinator' in Kabirdham. Pursuant to the process of selection, the Appellant was appointed as per Annexure P/2 order dated 06.07.2017 as 'District Coordinator' for the District Kabirdham, whereas the 2nd Respondent came to be listed as the first candidate in the waiting list.
3. In the course of further proceedings and enquiry, the 2nd Respondent came to know that the Appellant, apart from applying for the post in the District Kabirdham, had also applied for the post in District Bemetara and District Mungeli as well. By virtue of the course and conduct pursued by the Appellant, his candidature was liable to be cancelled in terms of the

advertisement and hence, the 2nd Respondent moved the 3rd Respondent. On evaluating the circumstances, it was noted by the 3rd Respondent that the appointment given to the Appellant was liable to be cancelled. However, the proceedings took a different turn, whereby the appointment given to the Appellant on 06.07.2017 as per Annexure P/2 came to be sustained, which made the 2nd Respondent to challenge the same by filing Writ Petition (S) No. 8066 of 2018. The impugned order was sought to be justified from the part of the Respondents contending that 3rd Respondent had issued an order of 'clarification' on 19.07.2017, whereby it was stated that in the case of persons who apply for more than 'one district', their candidature shall be considered only for 'one district'. On the basis of the said clarification, the appointment given to the Appellant in respect of the District Kabirdham was stated as proper and justified.

4. The learned Single Judge observed that similar challenge was raised in another case filed as Writ Petition (S) No. 3104 of 2017 {Sonika Sharma vs. State of Chhattisgarh & Others}. Referring to the relevant terms of the advertisement, it was categorically held by a learned Judge of this Court that the official-Respondents had diluted the restriction for participating in the process of selection; that too after commencement of the recruitment proceedings. It was accordingly, that the candidature of the Respondent concerned was interdicted. Placing reliance on the said verdict, the learned Single Judge in the instant case held that a candidate who applied for more than 'one district' automatically would stand disqualified. Under such circumstance, the official-Respondents could not have accepted the candidature of the Appellant for being appointed to the post of 'District Coordinator of Kabirdham', he having applied for more than 'one district'. It is also observed that the 'clarificatory order' dated

19.07.2017 could have only prospective effect as already dealt with and held by the learned Judge in **Sonika Sharma's** case (supra).

5. The learned Judge noted further that the decision in **Sonika Sharma's** case was confirmed by a Division Bench of this Court by dismissing Writ Appeal No. 812 of 2018 arising therefrom as per judgment dated 13.12.2018. It was accordingly that the writ petition filed by the 2nd Respondent herein was allowed, holding that the appointment of the Appellant was bad in law being contrary to the advertisement, thus, declaring that Annexure P/2 order of appointment dated 06.07.2017 deserved to be set aside, simultaneously, giving consequential directions to the official respondents in this regard.
6. Shri Rohit Sharma, the learned counsel appearing for the Appellant submits that the stipulation in the advertisement that a person can apply only in 'one district' cannot stand in the way of the Appellant as the application preferred by the Appellant in more than 'one district' is only an irregularity and not an illegality. We find it difficult to agree. There is no dispute to the fact that the terms in the advertisement were quite categorical, to the effect that a candidate can apply only in 'one district' and that the candidature will not be considered, if applied for 'more than one district'. The said stipulation came to be watered down by the official-Respondents as per the clarification/communication dated 19.07.2017 *i.e.* after giving appointment to the Appellant as per Annexure P/2 dated 06.07.2017. In other words, the rules of the game were sought to be changed by the official-Respondents after commencement of the game, which is not possible in view of the law declared by the Apex Court in **K. Manjushree vs. State of Andhra Pradesh & Others** reported in (2008) 3 SCC 512.

7. In the above circumstances, we do not find any reason to differ from the view expressed by the Division Bench in Writ Appeal No. 812 of 2018. No tenable ground has been raised by the Appellant to interdict the verdict passed by the learned Single Judge.
8. Appeal fails. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge