

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 385 of 2021**

1. Sandeep Kumar Pal S/o Shri Sohan Lal Pal Aged About 38 Years R/o Village And Post Patewa, Ward No.12, Tahsil Gobra Nayapara, Block Abhapur, District Raipur, Chhattisgarh.
2. Nirmal Kumar Dewangan S/o Late Shri Sumer Lal Dewangan Aged About 39 Years R/o Behind Jai Ambey Hera Show Room, Jamul, Bhilai, District Durg, Chhattisgarh.
3. Ravi Lal Yadav S/o Late Shri Kunj Ram Yadav Aged About 46 Years R/o Amapara Chowk (Anjali Typing), Near Sheetla Mandir, Raipur, District Raipur, Chhattisgarh.
4. Virendra Kumar Sahu S/o Shri Dilip Kumar Sahu Aged About 41 Years R/o Village And Post Bhatgaon, Tahsil And District Dhamtari, Chhattisgarh.

---- Appellants**Versus**

1. State of Chhattisgarh Through Its Principal Secretary Department of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh.
2. Director Directorate of Public Instruction, Department of School Education, Indrawati Bhawan, Block-C, 1st Floor, Atal Nagar, Nawa Raipur, Raipur, Chhattisgarh.
3. Joint Director Directorate of Public Instruction, Department of School Education Indrawati Bhawan, Block-C, 1st Floor, Atal Nagar, Nawa Raipur, Raipur, Chhattisgarh.
4. Chhattisgarh Professional Examination Board Through Its Secretary, Shailendra Nagar, Raipur, Chhattisgarh.
5. District Education Officer Raipur, District Raipur, Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)

For Appellants	: Ms. Naushina Afrin Ali, Advocate.
For Respondents No 1 to 3 and 5 / State	: Mr. Sudeep Agrawal, Deputy Advocate General.
For Respondent No. 4	: Mr. Animesh Tiwari, Advocate.

Hon'ble Shri Arup Kumar Goswami, Chief Justice

Hon'ble Shri Goutam Bhaduri, Judge

Judgment on Board

Per Arup Kumar Goswami, Chief Justice

24.11.2021

Heard Ms. Naushina Afrin Ali, learned counsel for the appellants. Also heard Mr. Sudeep Agrawal, learned Deputy Advocate General for respondents No. 1 to 3 and 5 and Mr. Animesh Tiwari, learned counsel for respondent No.4.

2. This appeal is presented against an order dated 09.11.2021 passed by the learned Single Judge in WPS No. 5996 of 2021, declining to pass an interim order in I.A. No. 01 of 2021, praying for stay of the order dated 28.09.2021 by which, following an order dated 25.03.2021 passed in WPS No. 2069 of 2021 by this Court, services of the petitioners were terminated with immediate effect.

3. A perusal of order dated 25.03.2021 passed in WPS No. 2069 of 2021 goes to show that taking note of the arguments advanced that select list had been revised on more than couple of occasions, the respondents therein were directed to ensure that until the next date of hearing, no post reserved for ex-service men should be filled without leave of this Court, making it clear that the order would be applicable only in case, if the order of appointments had not been issued till that date.

4. It is submitted by Ms. Ali that the aforesaid order dated 23.05.2021 continues to be in force till today.

5. The appellants are ex-service men.

6. Ms. Ali submits that the impugned order dated 28.09.2021 was passed in gross violation of principles of natural justice and therefore, on that ground alone, the same was liable to be interfered with and as such, refusal to pass an interim order is not justified in the facts and circumstances of the case.

7. Per contra, learned counsel appearing for the respondents submit that the appellants were given posting orders on 28.08.2021 in violation of the interim order dated 25.03.2021 passed by this Court in WPS No. 2069 of 2021 and therefore, when the aforesaid order came to be noticed, steps were taken to rectify the mistake and therefore, the learned Single Judge was justified in refusing to pass an interim order.

8. In reply, Ms. Ali has drawn our attention to the order dated 22.03.2021 issued in favour of the appellant No. 1 to contend that the appellant was appointed prior to passing of the interim order and therefore, the interim order passed in WPS No. 2069 of 2021 cannot operate as against appellant No. 1. She further submits that similar appointment orders had been issued in respect of the other appellants as well and therefore, the contention advanced by Mr. Agrawal that no appointment orders were issued in favour of the appellants prior to passing of the interim order in WPS No. 2069 of 2021, is not tenable.

9. Since the matter is pending adjudication before the learned Single Judge, we would not like to record any conclusion with regard to the pleas taken by the learned counsel for the parties.

10. However, *prima facie*, it appears that the order dated 22.03.2021 cannot be understood to be an order of appointment as it is stated therein that

appointment orders would be issued once the institutions, which are closed due to Covid pandemic, open. In that circumstance, we are in accord with the view taken by the learned Single Judge while rejecting the prayer for interim order and therefore, finding no merit in this appeal, the appeal is dismissed.

11. Before parting with the records, we grant liberty to the learned counsel for the appellants, as prayed for, to make appropriate prayer for tagging the writ petition alongwith WPS No. 2069 of 2021. In the event of making any such prayer, the same shall be duly considered by the learned Single Judge.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge