

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 24836 of 2018 (O & M)

DATE OF DECISION : 20.09.2021

Dinesh Rathor

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vinod Bhardwaj, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

None for respondent No.3, despite service.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petitioner is before this court, *inter alia*, seeking issuance of a writ in the nature of mandamus directing the respondent number 2 to allow him to participate in scrutiny of documents and thereafter to conduct his interview as he has successfully cleared the written examination, but yet he is not being allowed to participate in the aforesaid next two rounds i.e. document verification and interview.

2. Plead case of the petitioner herein is that pursuant to an advertisement dated 01.12.2015, he had applied for the post of Junior Engineer in the department of town and country planning in BCB Category and is also entitled to benefit of being an Outstanding Sports Person. Total of

39 posts were advertised. The petitioner appeared in the written examination and successfully cleared the same. However, inadvertently he missed the result of written examination, which was declared online on 19.08.2018. On the website itself, where the result was declared, it was also stated online that the date for scrutiny of document was 01.09.2018. Subsequently, another date for scrutiny of documents was given for those candidates who had missed their first chance. Petitioner, however, pleads that being not aware of the declaration of the result online, he missed both the chances of aforesaid document verification given by the respondents.

3. In the return filed by the Haryana staff selection commission the stand taken is that the petitioner since remained absent on both the occasions first scrutiny of documents he cannot now seek any further opportunity for the same. The writ petition is thus liable to be dismissed. In the notice dated 04.09.2018 it was clearly stated that, in case a candidate does not appear for scrutiny of documents before the interview, no further opportunity will be given thereafter.

4. I have heard the rival contentions of both the learned counsel, appearing for respective parties.

5. Learned counsel for the petitioner argues on the pleaded lines that by sheer inadvertence and oversight, the petitioner did not see his result on the website and missed both the scheduled dates on which the scrutiny of documents was to take place.

6. In the written examination petitioner had obtained 110 marks as against respondent No.3, who has been selected in the same category having secured 93 marks. Notwithstanding, the candidature of the petitioner was not

considered qua the aforesaid post, since he failed to appear for the verification of his requisite documents after the declaration of written examination.

7. During the pendency of the writ petition, while issuing notice of motion, it was ordered by co-ordinate bench of this court that petitioner's documents be verified and scrutinized. In case he falls within the zone of consideration, he shall then be provisionally interviewed and his result be kept in sealed cover.

8. A short reply has been filed by respondent No.1-State of Haryana simply puts onus on respondent No.2-HSSC, inasmuch as, stating that being not competent authority to redress the grievance of the petitioner, necessary action, if any, is to be taken by respondent No.2-HSSC. While on the other hand, stand taken by respondent No.2-HSSC is that it is not disputed that the petitioner has indeed secured more marks than the last selected candidate, i.e. respondent No.3. However, it is his own fault that he opted to remain absent for scrutiny of documents. Despite having knowledge of the same being carried out, as was duly put on the website of respondent No.2-HSSC.

9. It is an admitted position that none of the candidates were individually notified with regard to the declared written examination result. It was simply published on the website. Pursuant thereto, they were to appear for the document verification as per the schedule provided by the Haryana Staff Selection Commission.

10. This Court is conscious that to give individual intimation to every candidate, passed or failed, appearing in written examination, given sheer

number of them, it may not perhaps be possible. However, at the same time, it can at least be done only for those candidates who have been successful, in order to obviate any irreparable loss which may be caused to them by sheer oversight or otherwise not being able to access internet on time or for whatever other reasons not being aware of their having successfully qualified. It is an accepted reality that securing livelihood, particularly a government job, given the competitiveness, is not easy at all. A successful candidate can be penalised over harshly, for sheer inadvertence.

11. As regards respondent No.3 herein, the last selected candidate, despite having been given repeated opportunities, has preferred not to defend his selection. Neither any return has been filed on his behalf, nor is he is represented through any advocate, even today. Similar was the position even on the earlier dates of hearing.

12. Be that as it may, concededly respondent No.2-HSSC did not notify the successful candidates in the written examination, either through e-mail or WhatsApp, which was perhaps more desirable way of intimating the candidates. Given, that due to certain exigencies, some of those, who do not have access to the internet or even otherwise some of them may not have the knowledge that their result has been declared and they are successful, it would rather be a travesty to ignore merit on that ground alone. Ultimate goal is to select whoever is more meritorious, unless of course, he declines.

13. In the premise, since the merit of the petitioner is not disputed and it is in the interest of the official respondents also to have more meritorious person qua the post in hand, given the technical nature of the same, his claim to the post in hand deserves acceptance. Also to be noted, the petitioner has

already been allowed to be interviewed on provisional basis. The respondents are, therefore, directed to give the benefit of merit to the petitioner in terms of his position in the merit list and consider him for appointment in accordance thereof and proceed further accordingly. However, it will be open to the respondents to consider the candidature of the petitioner against a post, if lying vacant as on today, in the category he had had applied and/or create a supernumerary post, as the case may be.

14. Let the needful be done within a period of two months from today.

15. Writ petition is allowed in the above terms. No costs.

SEPTEMBER 20, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No