

CWP-23356-2021

Date of Decision : 06.12.2021

Jagbir alias Jagbir Singh and another

...Petitioners

Versus

State of Haryana and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Ravi Pratap Singh, Advocate for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

B.S. Walia, J. (Oral)

1. Prayer in the writ petition under Article 226 of the Constitution of India, is for the issuance of a writ in the nature of Certiorari to quash order dated 09.11.2021 reverting the petitioners from the post of ASI to Head Constable on the basis of report of Nominated Committee dated 13.09.2021, without supplying the same to the petitioners, thereby depriving the petitioners of giving effective reply to the show cause notice.

2. On 18.11.2021, the following order was passed :-

“At the outset, learned counsel states that he may be permitted to withdraw the writ petition qua petitioner No.2 with liberty to file a fresh writ petition on the same cause of action.

In view of the statement of learned counsel for the petitioners, the writ petition qua petitioner No.2 is dismissed as withdrawn with the liberty, as prayed for.

Learned counsel contends that despite undertaking of learned AAG, Haryana as noted in order (Annexure P-2) dated 29.10.2021 in CWP No.21983 of 2021 that copy of report dated 13.09.2021, submitted by the nominated Committee would be furnished to petitioner No.1, whereafter he could give a reply to

the show cause notice which would be considered and decided by the competent authority before taking action in terms of the recommendation of the sub-Committee, copy of report as referred to above was not supplied to petitioner No.1 before passing of impugned order (Annexure P-3) dated 09.11.2021, therefore, the impugned order is liable to be set aside and the matter remanded to the competent authority for compliance with the orders of this Court dated 01.11.2021 in CWP No.22144 of 2021 before passing of orders on the show cause notice.

Notice of motion.

Notice : reg. stay.

Mr. Tapan Kumar, learned DAG, Haryana, accepts notice on behalf of the respondents and requests for a short adjournment to obtain instructions and to file reply, if necessary and to argue the matter.

Adjourned to 26.11.2021.

Operation of the impugned order is stayed, in the meantime, till the next date.”

3. Today, learned State counsel on instructions from Mr. Manbir Singh, Legal Assistant, 2nd IRB, states that report of the Nominated Committee dated 13.09.2021 along with connected documents was supplied to the petitioner on 15.11.2021, fresh show cause notice issued and the same was received by the petitioner on 16.11.2021.

4. Learned counsel contends that in the circumstances, impugned order Annexure P/3 dated 09.11.2021, is liable to be set aside and fresh opportunity given to the petitioner to submit reply to the show cause notice and appropriate orders passed thereafter.

5. Learned State counsel has not been able to counter the submissions of learned counsel for the petitioner for the obvious reasons that

the report of the Nominated Committee was not supplied to the petitioner before the passing of the impugned order Annexure P-3 dated 09.11.2021 but on a date thereafter i.e. 15.11.2021.

6. Accordingly, in the light of the position noted above, impugned order Annexure P-3 dated 09.11.2021 is set aside. Liberty is granted to the petitioner to submit reply to the show cause notice within one week from the date of receipt of certified copy of this order, whereafter, the competent authority shall consider the matter in accordance with law and pass such orders as are deemed appropriate in the facts and circumstances of the case.

7. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

06.12.2021

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*