

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

CWP-35350-2019(O&M)

Date of decision:-6.10.2021

Ravi Kant

...Petitioner

Versus

Haryana Staff Selection Commission through its Secretary and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sumit Sangwan, Advocate
for the petitioner.

Mr.Harish Rathee, DAG, Haryana.

Mr.Hitesh Pandit, Advocate
for respondents No.2 and 5.

Mr.Vikram Bishnoi, Advocate
for respondent No.3.

Mr.Gopal Sharma, Advocate
for respondents No.4, 6, 8 to 11.

H.S. MADAAN, J.

Petitioner Ravi Kant, aged 26 years, son of Satyavir Singh, resident of VPO Khatod, Tehsil and District Mahendergarh has brought the present civil writ petition against Haryana Staff Selection Commission, Panchkula through its Secretary as well as Haryana State Agricultural Marketing Board, Panchkula and 10 other private respondents craving for issuance of a writ in the nature of certiorari for

quashing the result (Annexure P9) dated 15.6.2019 of BCB category of category No.17 in advertisement No.7/2015 for the post of Mandi Supervisor – cum - Fee Collector and letter dated 18.11.2019 (Annexure P11) as well as action of respondent – Commission of rejecting the candidature of the petitioner and further for issuance of a writ in the nature of mandamus directing respondents No.1 and 2 to consider the petitioner eligible for the post in his category and declare his result and give him appointment keeping in view his merit.

Inter alia, in the writ petition, the petitioner has contended that respondent No.1 had advertised various posts in different departments in the State of Haryana, which included 126 posts in category No.17 of Mandi Supervisor – cum - Fee Collector, which were re-advertised having 10 posts meant for BCB category of Agriculture Marketing Board vide advertisement No.7 dated 10.7.2015; the petitioner applied for the said post by submitting online application within specified time; he had applied under BCB category; respondent No.1 had conducted written examination on 28.5.2017; the petitioner had appeared in that examination; as per the result of written examination declared on 15.4.2018, the successful candidates were called for scrutiny of documents on 30.4.2018 and 1.5.2018; the petitioner had appeared for that purpose; inadvertently the petitioner could not appear on earlier occasion for scrutiny of documents; thereafter on 19.10.2018, a notice was issued by respondent No.1 calling eligible candidates for interview, which included the petitioner; the Commission declared final result on 15.6.2019; the petitioner was shocked to know that his roll number was

not there in the final result. According to him, the cut-off marks of 10 posts of BCB category were 147; the petitioner moved an application on 15.7.2019 under Right to Information Act, seeking information regarding his result but despite first appeal having been filed by him, the respondent – Commission did not disclose his marks; ultimately he received a letter on 18.11.2019 that he was not eligible for interview; the petitioner visited the office of Commission on 25.11.2019 and was told orally that his graduation certificate/DMC/Degree were after the last cut-off date. According to the petitioner that was not correct because he had completed his graduation in June, 2014 much prior to cut-off date and there is no space in his name as Ravi Kant as mentioned in DMC and Degree as Ravikant; due to the correction the earlier original DMC and Degree were replaced by the University by giving space in his name; that with the application form, the petitioner had uploaded his earlier DMC of the year 2014 and in scrutiny of documents and at the time of interview, he showed the original, which was issued later on along with the photocopies of earlier certificates; the petitioner had appeared in the interview after satisfying the authorities/officials but respondent – Commission did not consider his candidature on a technical ground and did not declare his result; that the concerned university had also issued letter dated 20.11.2019, copy Annexure P12 by certifying the fact that petitioner had completed his B.Tech degree on 16.6.2014 and after correction the same was prepared on 20.3.2017.

Feeling aggrieved, the petitioner had brought the present writ petition.

On notice, the respondents appeared. A short reply was filed by Secretary (Legal), Haryana Staff Selection Commission on behalf of respondent No.1. In the said written reply, such respondent had taken up the plea that petitioner is not entitled to invoke extra ordinary writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India since no fundamental right of the petitioner had been infringed; that petitioner had applied for the post of Mandi Supervisor – cum - Fee Collector under BCB category. According to such respondent, petitioner's roll number was mentioned in the result dated 15.4.2018; the petitioner had appeared for scrutiny of documents on 2.9.2018 and was inadvertently mentioned as eligible; the petitioner was mistakenly called for interview and he appeared for the same on 25.10.2018; that petitioner had been inadvertently mentioned as eligible in the scrutiny and interview, however before declaring the final result and making recommendation for the post in question, the respondent Commission rechecked the documents of the candidates and found out at the time of rechecking that the petitioner was not eligible as the mark sheets of Bachelor of Technology and Bachelor of Technology Degree were found to be issued after closing date i.e. 4.12.2015, which cannot be considered for the post in question as per the terms and conditions of the advertisement; that the respondent – Commission had declared the final result for the post in question on 15.6.2019 and the last selected candidate under BCB category had secured 147 marks and the last selected candidate in waiting list had secured 144 marks under BCB category. However, the petitioner cannot be considered in the final list or in the waiting list as he was not found eligible for the

post in question; the writ petition at his instance is not maintainable. It has further been contended that all the 10 posts have already been filled up and there is no post vacant under BCB category. Although the petitioner has secured more marks i.e. 153 marks but he cannot be considered in the final list or in the waiting list as he was not found eligible for not having the requisite qualification before the closing date as per his application form; that the petitioner is estopped by his own act and conduct from filing the writ petition. Refuting the remaining allegations, such respondent prayed for dismissal of the writ petition.

I have heard the learned counsel for the parties besides going through the record.

The parties are not at variance with regard to petitioner having taken up the examination for recruitment of Mandi Supervisor – cum - Fee Collector advertised vide advertisement No.7/2015 under category of BCB, his having passed the written examination called for interview where he had produced his documents; Although as pleaded by respondent No.1 in the written reply, petitioner had been inadvertently mentioned eligible in the scrutiny and interview but it is not believable that petitioner was mentioned to be eligible inadvertently. The respondents have got a considerable number of officials, who participate in the process for holding the written examinations and interviews. It does not seem probable that petitioner could have been held to be eligible in the scrutiny, by any inadvertence. The sole reason given for rejecting the claim of the petitioner is that at the time of rechecking , the mark-sheet of B-Tech and B-Tech degree were found to be issued after closing date i.e.

4.12.2015. Furthermore, the mark-sheets of semester 3rd to 7th of B-Tech and B-Tech degree dated 30.9.2016 cannot be considered since they are not prior to closing dated i.e. 4.12.2015 as per the terms and conditions of the advertisement. This fact is controverted by counsel for the petitioner contending that earlier the petitioner used to write his name as Ravi Kant in the form of one word and all his certificates and mark-sheets etc. contained his name as such. Subsequently, he had got his name corrected as Ravi Kant. The certificates referred to in para No.7 of the written reply, relate to mentioning of his name with gap in between Ravi and Kant.

Learned counsel for the petitioner has drawn my attention to various educational documents of the petitioner. The secondary examination certificate of qualification with mark-sheet is dated 17th April, 2008, backward cast certificate dated 13.5.2008, other backward caste certificate dated 13.5.2008, Haryana resident certificate dated 13.5.2008, detailed marks certificate 1st Semester of Computer Engineering Diploma Examination held in December, 2008 dated 25.3.2009 and various other documents including B-Tech (Mechanical Engineering) 3rd semester certificate dated 11.5.2013, 4th semester certificate dated 26.9.2013, 5th semester certificate dated 11.5.2013, 6th semester certificate dated 26.9.2013, 7th semester certificate dated 2.5.2014 and 8th semester certificate dated 16.6.2014. The confusion in the matter seems to have occurred on account of writing of the name of the petitioner in a different manner. Although as stated by learned counsel appearing for the respondents No.2 and 5, all the 10 vacancies under the category BCB have since been filled up but it has been pointed out by

learned counsel for the petitioner that private respondent No.10 in this case namely Ashish Yadav has since resigned, in that way, the vacancy is there. As mentioned in the written reply, the petitioner has obtained more marks than last selected candidate in BCB category. A vacancy being there, it would be proper and appropriate if the petitioner is considered for appointment as Mandi Supervisor – cum - Fee Collector against the vacant post as per rules and instructions.

Therefore, the writ petition is disposed of and respondent – Haryana Staff Selection Commission is directed to consider the name of the petitioner for appointment as detailed above within a period of one month from today.

6.10.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No