

CWP-915-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105)

CWP-915-2020

Date of decision : 19.04.2023

Dilawar Singh

...Petitioner

Versus

The State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sandeep Goyat, Advocate
for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

...

SUVIR SEHGAL, J. (Oral)

1. By way of present writ petition, petitioner is seeking issuance of a writ in the nature of mandamus directing the respondents to consider his candidature in the EWS category for the post of Junior Engineer and for a direction to the respondents to allow the petitioner to participate in the selection process.

2. Petitioner is an applicant for the post of Junior Engineer under various categories, pursuant to Advertisement No.10/2019 published on 15.06.2019 by the Haryana Staff Selection Commission – respondent No.2. Petitioner inadvertently submitted the application in the General category,

whereas, he belongs to the EWS category. Although, he appeared in the written test and fared well, but he was not called for scrutiny of documents. He submitted representation dated 21.12.2019, Annexure P-7, but it has not been responded to by respondent No.2.

3. Upon notice, a short reply has been filed by respondents No.1 and 2 submitting therein that the OMR sheet submitted by the petitioner was found to be scratched/smudged and was accordingly cancelled.

4. Heard counsel for the parties.

5. Pursuant to order passed by this Court, the Xerox copy of the OMR answer sheet of the petitioner has been produced and taken on record. It clearly shows scratching against Question No.26.

6. A specific instruction had been given to the candidates to the effect that scratching/smudging or damaging the OMR sheet in any manner is prohibited and in case any such damaged sheet comes to the notice of the Commission, it shall be liable to be cancelled. An instruction bearing No.6 to this effect was printed on the Admit Card and is reproduced as under:-

“6. Candidates are warned not to fold, tear, destroy or make any stray marks on the OMR Answer Sheet. Use of Eraser, Nail, Blade, White Fluid/Whitener etc. to smudge, scratch or damage in any manner the OMR sheet during Examination is strictly prohibited. Candidature/OMR sheet of candidates using Eraser, Blade, Nail or White Fluids/Whitener to smudge, scratch or damage in any manner the answer sheets shall be cancelled.”

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7. Similar instruction has been printed on the question paper and is extracted as under:-

“8. Candidates are warned not to fold or make any stray marks on the OMR Answer Sheet. Use of Eraser, Nail, Blade, White Fluid/Whitener etc., to smudge, scratch or damage in any manner on the OMR sheet during Examination is strictly prohibited. If doing so, their Answer Sheet shall be cancelled and shall not be evaluated.”

8. Following the above instructions, the Commission – respondent No.2 cancelled the OMR sheet of the petitioner and did not evaluate it. The decision of the Commission to be cancelled/smudged/scratched the OMR sheet has been upheld by a Division Bench of this Court in ***LPA No.92-2017*** titled as ***“Anshu and others Versus State of Haryana and others”***, decided on 20.01.2017, Annexure R-1/4, against which ***SLP (C) No.8430-2017*** has been dismissed by the Hon’ble Supreme Court on 27.03.2017, Annexure R-1/5.

9. Given the above factual and legal position, this Court is of the view that the relief sought for by the petitioner cannot be granted.

10. Finding no merit in the petition, which is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

19.04.2023
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes