

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

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CWP-2556-2023 (O&M)

Date of Decision: 27.03.2023

NAVEEN DAHIYA

... Petitioner

Versus

HARYANA STAFF SELECTION COMMISSION

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sidharth Sanwaria, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for issuance of a writ in the nature of Mandamus directing the respondents to call for the entire records of the selection process, including preparation of inter se merit between the petitioner and other selected candidates.

Learned counsel for the petitioner submits that against advertisement dated 20.07.2019, the petitioner had applied for the post in question and that on the basis of the written examination and scrutiny of the documents, the final result was prepared and declared, in which the petitioner's name did not figure.

Notice of motion.

On the asking of this Court, Mr. RS Budhwar, Additional AG Haryana, accepts notice on behalf of the respondents-State. He submits that once the petitioner had participated in the entire selection process, he cannot turn around and challenge the same, after having remained unsuccessful.

In support of his contention, learned State counsel relies upon the judgment delivered by the Hon'ble Apex Court in Madras Institute of Development Studies and another vs Dr. K. Sivasubramaniyan and others, 2015 AIR (Supreme Court) 3643.

I have heard the learned counsel for the parties.

In Madras Institute of Development Studies's case (supra), the Hon'ble Apex Court has categorically held that when a candidate has voluntarily participated in the selection proceedings, he cannot turn around later on to question the selection process. It was held as under:-

'18. The contention of the respondent no.1 that the short-listing of the candidates was done by few professors bypassing the Director and the Chairman does not appear to be correct. From perusal of the documents available on record it appears that short-listing of the candidates was done by the Director in consultation with the Chairman and also senior Professors. Further it appears that the Committee constituted for the purpose of selection consists of eminent Scientists, Professor of Economic Studies and Planning and other members. The integrity of these members of the Committee has not been doubted by the respondent- writ petitioner. It is well settled that the decision of the Academic Authorities about the suitability of a candidate to be appointed as Associate Professor in a research institute cannot normally be examined by the High Court under its writ jurisdiction. Having regard to the fact that the candidates so selected possessed all requisite qualifications and experience and, therefore, their appointment cannot be questioned on the ground of lack of qualification and experience. The High Court ought not to have interfered with the decision of the

Institute in appointing respondent nos. 2 to 4 on the post of Associate Professor

19. *Be that as it may, the respondent, without raising any objection to the alleged variations in the contents of the advertisement and the Rules, submitted his application and participated in the selection process by appearing before the Committee of experts. It was only after he was not selected for appointment, turned around and challenged the very selection process. Curiously enough, in the writ petition the only relief sought for is to quash the order of appointment without seeking any relief as regards his candidature and entitlement to the said post.*

20. *The question as to whether a person who consciously takes part in the process of selection can turn around and question the method of selection is no longer res integra.*

21. *In Dr. G. Sarana vs. University of Lucknow & Ors.*, (1976) 3 SCC 585, a similar question came for consideration before a three Judges Bench of this Court where the fact was that the petitioner had applied to the post of Professor of Anthropology *in the University of Lucknow. After having appeared before the Selection Committee but on his failure to get appointed, the petitioner rushed to the High Court pleading bias against him of the three experts in the Selection Committee consisting of five members.* He also alleged doubt in the constitution of the Committee. Rejecting the contention, the Court held:-

“15. We do not, however, consider it necessary in the present case to go into the question of the reasonableness of bias or real likelihood of bias as despite the fact that the appellant knew all the relevant facts, he did not

before appearing for the interview or at the time of the interview raise even his little finger against the constitution of the Selection Committee. He seems to have voluntarily appeared before the committee and taken a chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the constitution of the committee. This view gains strength from a decision of this Court in Manak Lal's case where in more or less similar circumstances, it was held that the failure of the appellant to take the identical plea at the earlier stage of the proceedings created an effective bar of waiver against him. The following observations made therein are worth quoting:

"It seems clear that the appellant wanted to take a chance to secure a favourable report from the tribunal which was constituted and when he found that he was confronted with an unfavourable report, he adopted the device of raising the present technical point."

The challenge of the petitioner to the selection process, after having participated in the same and after having remained unsuccessful, is nothing but an afterthought.

In view of the above, I find no merit in the present petition.

Dismissed.

27.03.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>