



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 1st September, 2023**

+ **W.P.(C) 11559/2023 & CM APPL. 45033/2023 (Stay)**

DILKHUS MEENA AND ORS. Petitioners

Through: Mr.____, Advocate (Appearance not given)

versus

UNION OF INDIA & ORS. Respondents

Through: Mr.Niraj Kumar, Sr. CGSC with
Mr.Gokul Sharma, G.P. for R-1 to
3/IOI

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Articles 226 and 227 read with Articles 14 and 21 of the Constitution of India has been filed on behalf of petitioners seeking the following reliefs:-

“(A) Be kind and pleased to issue a writ of Man.dam us directing the respondents to accept the candidature of petitioners and allow them to appear in the upcoming exam scheduled by the Respondents and opportunity be given to the Petitioners to appear in the process of recruitment for the said post.of multltaskingstaff and havaldar (CBIC &CBN) 2023



(B) Pass such order(s) as this Hon'ble Court deems fit and proper in facts and circumstances of this case and for justice."

2. The petitioners are the students preparing for various competitive examinations. On 30th June, 2023, the respondent No. 2 ('respondent Commission' hereinafter) published a notification/advertisement No. F.No. HQ-PPI03/12/2023-PP1 for recruitment of the Multi-Tasking (Non-technical) staff and Havaldar in the Department of Revenue, Government of India. The said notification indicated total vacancies of 1558 for the said posts.

3. The petitioners had applied for the said positions and filled the form/application as per the requirements of the official notification and submitted the online form through the official website, however, the applications were rejected by the respondent Commission and the reasons provided for the same was '*duplicate by photo with reg no. _____*'

4. On receiving the information of rejection of the application forms, the petitioners sent their representations to the respondent Commission. However, no reply was received. Therefore, aggrieved by the same, the petitioners have preferred the instant writ petition.

5. Learned counsel appearing on behalf of the petitioners submitted that the petitioners fulfil the eligibility criterion and filled the form as per circular No./File No. F.No. HQ-PPI03/12/2023-PP1 issued by the respondent Commission.

6. It is submitted that the petitioners are *bonafide* candidates and are



suffering from unfair treatment at the hands of the respondents, therefore, violating their right to appear in the examination.

7. It is submitted that the respondent Commission has adopted an inhuman approach by depriving the petitioners of their rights in a technical manner of their legitimate candidature thereby forcing the petitioners to file the writ petition.

8. It is also submitted that the petitioners have made several representations to the respondent Commission, however, the respondent Commission has chosen to sit on the matter and has not responded to the said representations made through mails.

9. In view of the above arguments, learned counsel for the petitioner prays that the petition be allowed and the reliefs be granted as prayed.

10. *Per Contra*, learned counsel appearing on behalf of the respondents vehemently opposed the petition and submitted to the effect that the petitioners had failed to provide correct photograph, a document necessary and mandatory for processing of the applications.

11. It is submitted that the petitioners have not challenged the impugned decision of the respondent Commission, and had only filed the present petition seeking issuance of mandamus directing the respondent Commission to accept the candidature of the petitioners.

12. It is submitted that the petitioners have failed to pray for quashing of the decision of rejection, forging his right to claim for quashing of the said decision by way of the instant petition.

13. Therefore, in view of the foregoing submissions, it is prayed that the



instant petition, being devoid of any merit, is liable to be dismissed.

14. Heard the learned counsel for the parties and perused the records.

15. It is the case of the petitioners that the respondent Commission has wrongly rejected their application forms, thereby, depriving them the opportunity to appear for the examination and getting shortlisted to be appointed for the vacant positions.

16. Before delving into the merits of the case, it is pertinent to revisit the submissions made by learned counsel for the respondents where it is submitted that the current petition cannot be allowed as the petitioners have not prayed for quashing the decision of rejection of applications and has only prayed for issuance of mandamus seeking directions to the respondents to accept the candidature of the petitioners and allow them to appear for the examination.

17. Therefore, it becomes imperative to analyze whether the writ of mandamus can be issued in the instant case, even though the petitioners have failed to pray for quashing the decision of rejection of the applications given by the respondent Commission leading to filing of the instant petition.

18. The issue of issuance of a writ for a prayer not pleaded is well settled by the Hon'ble Supreme Court in a catena of judgments. In ***Bachhaj Nahar v. Nilima Mandal, (2008) 17 SCC 491***, the Hon'ble Supreme Court had discussed the purpose of pleadings at length and held that allowing a particular relief without there being a prayer for the same would lead to miscarriage of justice. The relevant paragraph is reproduced herein:



“12. The object and purpose of pleadings and issues is to ensure that the litigants come to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issues before the court for its consideration. This Court has repeatedly held that the pleadings are meant to give to each side intimation of the case of the other so that it may be met, to enable courts to determine what is really at issue between the parties, and to prevent any deviation from the course which litigation on particular causes must take.

13. The object of issues is to identify from the pleadings the questions or points required to be decided by the courts so as to enable parties to let in evidence thereon. When the facts necessary to make out a particular claim, or to seek a particular relief, are not found in the plaint, the court cannot focus the attention of the parties, or its own attention on that claim or relief, by framing an appropriate issue. As a result the defendant does not get an opportunity to place the facts and contentions necessary to repudiate or challenge such a claim or relief. Therefore, the court cannot, on finding that the plaintiff has not made out the case put forth by him, grant some other relief. The question before a court is not whether there is some material on the basis of which some relief can be granted. The question is whether any relief can be granted, when the defendant had no opportunity to show that the relief proposed by the court could not be granted. When there is no prayer for a particular relief and no pleadings to support such a relief, and when the defendant has no opportunity to resist or oppose such a relief, if the court considers and grants such a relief, it will lead to miscarriage of justice. Thus it is said that no amount of



evidence, on a plea that is not put forward in the pleadings, can be looked into to grant any relief.”

19. In ***Bharat Amratlal Kothari v. Dosukhan Samadkhan Sindhi, (2010), 1 SCC 234***, the Hon’ble Supreme Court discussed the scope of Writ Court and held that even though the courts have wide discretion in deciding the writs, they cannot grant a relief not prayed by the petitioner. The relevant paragraph is as follows:

“29. The approach of the High Court in granting relief not prayed for cannot be approved by this Court. Every petition under Article 226 of the Constitution must contain a relief clause. Whenever the petitioner is entitled to or is claiming more than one relief, he must pray for all the reliefs. Under the provisions of the Code of Civil Procedure, 1908, if the plaintiff omits, except with the leave of the court, to sue for any particular relief which he is entitled to get, he will not afterwards be allowed to sue in respect of the portion so omitted or relinquished.”

20. The question of granting relief not sought by the petitioners in the pleadings was revisited by the Hon’ble Supreme Court in the case of ***Manohar Lal v. Ugrasen, (2010), 11 SCC 557***, whereby the Hon’ble Court cited some of its earlier judgments and summarized the settled position of law and held as under:

“30. In Trojan & Co. v. Nagappa Chettiar [AIR 1953 SC 235] this Court considered the issue as to whether relief not asked for by a party could be granted and that too without having proper pleadings. The Court held as under : (AIR p. 240, para 22)



“22. ... It is well settled that the decision of a case cannot be based on grounds outside the pleadings of the parties and it is the case pleaded that has to be found. Without an amendment of the plaint, the court was not entitled to grant the relief not asked for and no prayer was ever made to amend the plaint so as to incorporate in it an alternative case.”

31. *A similar view has been reiterated by this Court in Krishna Priya Ganguly v. University of Lucknow [(1984) 1 SCC 307 : AIR 1984 SC 186] and Om Prakash v. Ram Kumar [(1991) 1 SCC 441 : AIR 1991 SC 409] observing that a party cannot be granted a relief which is not claimed.*

32. *Dealing with the same issue, this Court in Bharat Amratlal Kothari v. Dosukhan Samadkhan Sindhi [(2010) 1 SCC 234 : (2010) 1 SCC (Cri) 757 : AIR 2010 SC 475] held : (SCC p. 246, para 30)*

“30. ... Though the court has very wide discretion in granting relief, the court, however, cannot, ignoring and keeping aside the norms and principles governing grant of relief, grant a relief not even prayed for by the petitioner.”

33. *In Fertilizer Corpn. of India Ltd. v. Sarat Chandra Rath [(1996) 10 SCC 331 : 1997 SCC (L&S) 75 : AIR 1996 SC 2744] this Court held that “the High Court ought not to have granted reliefs to the respondents which they had not even prayed for”.*

34. *In view of the above, law on the issue can be summarised that the court cannot grant a relief which has not been specifically prayed by the parties. The instant case requires to be examined in the light of the aforesaid certain legal propositions.*

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38. *Admittedly, the interim order passed by the High Court in favour of Shri Manohar Lal in Writ Petition No. 4159 of 1980 was in force and it restrained the authorities to make allotment*



of the land in dispute in favour of anyone else. Indisputably, the State Government as well as GDA remained fully alive of the factum of subsistence of the said interim order as is evident from the correspondence between them. In view of the law referred to hereinabove, order passed by the State Government in contravention of the interim order remains unenforceable and inexecutable.

39. More so, in the writ petition filed by Shri Ugrasen relief sought was limited only to quash the allotment made in favour of Shri Manohar Lal. No relief was sought for making the allotment in favour of the writ petitioner Shri Ugrasen. However, the High Court vide the impugned judgment and order has issued direction to make the allotment in his favour. Thus, we are of the view that issuance of such a direction was not permissible in law. Even otherwise as Shri Ugrasen's land had been acquired for roads, he could not make application for taking benefit of the Land Policy, particularly, when the Land Policy was not declared to be invalid or violative of the equality clause enshrined in Article 14 of the Constitution."

21. On perusal of the aforesaid judgments, it is evident that even though the scope of mandamus is very wide, Courts cannot ignore the principles governing grant of relief. It is a well settled principle of law that the Courts should not delve into the aspects which are related to reliefs not prayed by the petitioner and it is fundamental that a relief can be granted in a case when it is prayed by the petitioner. Therefore, any relief, not prayed by the petitioners, cannot be granted by this Court under Article 226 of the Constitution.

22. In the instant case, the petitioners have approached this Court with the prayer of directly directing the respondent Commission to allow them to



appear for the examination without praying for quashing of the earlier decision rendered by the Commission whereby the respondent Commission rejected the applications on the technical ground.

23. As per material on record, the petitioners had applied for the posts advertised by the respondent Commission and filled the online form available on the Commission's website. Later on, the petitioners were apprised of the rejection of the said application forms due to alleged duplicity of the photos uploaded by the petitioners.

24. Therefore, the petitioners have approached this Court, however, have failed to pray for quashing the decision of rejection of the application forms. Based on the foregoing discussion, it is already made clear that this Court cannot direct the respondent Commission to simply allow the petitioners to appear for the exam. Respondent Commission, being an agent of the government, is entrusted to verify the authenticity of the documents of the candidates, a condition mandatory for appearing for the examinations conducted for appointment to various Government services.

25. It is also an established fact that the respondent Commission is empowered to reject the applications on various grounds, if it deems it necessary. Even though the aggrieved candidates have the legal remedy to approach the Courts, the candidates need to keep in mind the settled position of law to seek a particular remedy.

26. In the instant case, even though the candidates have taken the legal recourse to raise their grievance, they have failed to pray for the appropriate remedy which has left the question of authenticity of the documents



unanswered. Therefore, this Court cannot get into the said examination or direct the respondent Commission for the same, if an appropriate prayer is not made in that regard.

27. Therefore, the instant petition is dismissed.

28. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

SEPTEMBER 1, 2023

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[Click here to check corrigendum, if any](#)