IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

COPC No. 890 of 2024 with Execution Petition No. 1272 of 2024
Decided on: 19.12.2024

COPC No. 890 of 2024

Shakun Saini ... Petitioner

Versus

Professor Sh. Laxmindhar Behera and others ... Respondents

Execution Petition No. 1272 of 2024

Shakun Saini ... Petitioner

Versus

Union of India and others ... Respondents

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Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?[1]

For the petitioner(s)	:	Mr. Shrawan Dogra, Senior Advocate with Mr. Saurav Rattan, Advocate for the petitioner in both the petitions.
For the respondents	:	Mr. Nand Lal Thakur, Senior Panel Counsel for respondent-UOI. Ms. Devyani Sharma, Senior Advocate with Mr. Basant Pal Thakur, Advocate for the contemnors in COPC No. 890 of 2024 and for respondent-Institute in Execution Petition No. 1272 of 2024.

Ajay Mohan Goel, Judge *(Oral)*

By way of these contempt execution petitions, the petitioner states that though this Court in the course of adjudication

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

of CWP No. 43 of 2023 had directed the respondents to test the ground/skill abilities either on the parameters fixed on 19.09.2022 by making them more objective or by framing fresh parameters which are more objective in nature, however, in terms of call letter dated 11.12.2024, the petitioner has been invited to participate in physical fitness/skill/trade test on 21.12.2024 on the parameters which have been prescribed therein which do not adhere to the directions passed by the Court in the writ petition.

2. I have heard learned Senior Counsel appearing for the petitioner as well as learned Senior Counsel appearing for the respondent-Institute. In terms of the call letter dated 11.12.2024, the following parameters now stand fixed by the respondents to test the physical fitness/skill/trade test abilities of the petitioner:-

> *"a) Your candidature for appearing in the process is completely provisional. Therefore, it must be ensured that you meet eligibility in all respects before appearing for the process in accordance with the advertisement.*
> *b) The pattern/Scheme of the Physical Fitness/Skill/Trade test is attached with this letter.*
> *c) Please bring self-attested copies of Marksheets, Degree, Diploma, and certificates of the educational qualifications, age, caste, experience and other relevant documents which are required to be submitted at the time of document verification along with originals. Falling to produce the documents, you will not be permitted to appear in the*

process and your candidature will be disqualified from further process of recruitment.

d) In case you are employed in the Government Sector and your application is not routed through proper channel, you are required to produce 'No Objection Certificate in original issued by your current employer.

e) You are required to bring two copies of this call letter with your photograph and signature affixed thereon along with Photo ID proof in original and a photocopy. Your photograph affixed on the call letter should match the one uploaded in the online application form; falling which you will not be allowed to appear for the selection process.

f) You will not be allowed to appear for the process on failure to report as per the schedule given above.

g) You must frequently check the Institute Website (http://www.litmandi acan) for further updates."

3. In para 13 of the judgment passed by this Court in CWP No. 43 of 2023 this Court held as under:-

"13. Herein the entire issue which this Court has to answer is whether the petitioner indeed was subjected to a fair skill and ground test by the respondent-Institute or not? A perusal of the record demonstrates that it was on the date of the written test as well as holding of the skill test/ground test, the selection committee decided to test the candidates on the following parameters to determine the qualifying in the trade Test:-

> *"The Selection Committee constituted for selection of Physical Training Instructor (UR- 01) (on contract) decided to test the candidates on following parameters to determine qualifying in the trade Test:*

1. Shuttle Run-4X10 mtrs.

2 Sprint-30 mtrs

3. Standing Broad Jump

4. Run-800 mtrs.

5. Sit ups in 30 secs.

6. Push Ups in 30 secs.

Total Time allowed: 01 hour for each candidate
Venue: Cricket Ground, South Campus, IIT Mandi"

4. Though, learned Senior Counsel for the petitioner by referring to para-13 of the judgment has submitted that the respondents have not adhered to the directions passed therein and now the petitioner is being subjected to such parameters which change the rules of the game, however, this Court is of the considered view that in light of the observations of this Court in terms whereof liberty was granted to the respondents to frame fresh parameters, which are objective in nature and, as fresh parameters framed by the respondents appear to be objective, this Court does not finds any reason to entertain the execution and the contempt petitions. Same are accordingly dismissed.

(Ajay Mohan Goel)
Judge

December 19, 2024
(*narender*)