



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

% *Date of decision: February 19, 2024*

+ W.P.(C) 2422/2024

(53) NISHANT

..... Petitioner

Through: Mr.Manish Rohilla, Mr.Pranjal
Kumar Azad and Mr.Anish Kashyap,
Advocates

Versus

INDIAN COAST GUARD THROUGH ITS DIRECTOR GENERAL
& ORS.

..... Respondents

Through: Mr. Shekhar Vyas, SPC with
Mr. Abhishek Khanna, G.P.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J. (ORAL)

CM APPL. 9929/2024 (for exemption)

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

W.P.(C) 2422/2024 & CM APPL. 9928/2024 (for stay)

3. As per facts, respondent no.1-Indian Coast Guard through Director General and respondent no.2- Indian Coast Guard through Directorate of Recruitment issued an advertisement for the post of Assistant Commandant Technical (Electrical/ Electronics) for the 02/2024 Batch. Out of the prescribed Stage-I, II, III, IV, the petitioner applied, appeared and cleared Stage-I of the examinations on 19.12.2023.
4. Thereafter, though the petitioner had to upload original documents online, however, he was unable to do so due to some technical glitch despite many attempts on 20.12.2023. Therefore, on 20.12.2023 itself he sent an e-



mail to the respondents addressing his grievance. Since the petitioner was out of station from 22.12.2023 to 23.12.2023, as he was to report for Physical Standard/ Efficiency Test at Central Industrial Security Force, SSG, Noida, he became aware about cancellation of his candidature only on 24.12.2023. Thus, after getting no response to his previous e-mail of 20.12.2023, he again sent e-mails on 28.12.2023 and 29.12.2023 as well.

5. Getting no revert thereto, the petitioner has now preferred the present petition under Article 226 of The Constitution of India seeking a direction to the respondents for allowing the petitioner to appear for the SSB test and to further direct the respondent to let him join the SSB as per his merit.

6. Learned counsel for the petitioner submits that there was a technical glitch on the part of the respondents and it cannot be attributable to the petitioner, moreover, the petitioner being a prudent person had already sent an e-mail for the resolution of the technical issues, thus, his candidature ought not to be cancelled.

7. *Per-contra* learned counsel for the respondents submits that the petitioner is one of the only candidate who failed to comply with the pre-requisite mandate of uploading the documents as per the advertisement within the stipulated time whereas there are other candidates who were able to comply with it within the stipulated time.

8. We have heard the learned counsel for the parties and perused the documents on record as well.

9. At the outset, this Court finds that since the petitioner has neither challenged the procedure adopted by the respondents nor questioned the pre-set timeline stated in the advertisement issued by the respondents, the scope of interference in the present petition is extremely miniscule. This is,



moreover, as it is the prerogative of the respondents to set up the procedures; and to regulate the deadline(s) of the requisite dates; and to call for the requisite documents; as also to fix the stages/ schedules stipulated in the advertisement is as per their discretion, which under the present scenario leaves no occasion for this Court to exercise its jurisdiction under Article 226 of The Constitution of India as it is to be sparingly used, that too only whence there is any plausible scope of interference or when some prescribed procedure(s) have not been followed or when the notification/ advertisement/ rule/ regulation or like are under challenge and not otherwise in each and every situation. Thus, that being not the position in the present petition, no interference by this Court is called for under Article 226 of The Constitution of India.

10. Also, since the petitioner herein is the sole candidate before us who has been unable to upload the requisite documents in compliance of the pre-requisite mandate as per the advertisement and as there are no other complaint(s) qua any such 'technical glitch' of any kind from any other candidate and the procedure went on smoothly as expected, this Court, finds it impossible that the non-uploading of the documents by the petitioner can be attributable to the respondents. In any event, the scope of Article 226 of The Constitution of India is not to determine the same, more so, when this Court is not a fact-finding authority.

11. As it is not disputed that the petitioner was indeed unable to upload the pre-requisite documents at the relevant stage/ time, even though it was incumbent upon him to do so, there can be no excuse for the petitioner for being granted any benefit thereof. The original documents thereof can neither be compared nor verified at the Stage-II by the respondents.



Allowing it will result in creating an anomaly. Further, the petitioner despite having almost two reserve days to upload the said documents for rectifying his mistake, failed to do so.

12. As such, the petitioner cannot be allowed to saddle his wrongdoing onto the respondents by pleading that there was some 'technical glitch', especially when he is a '*one-off*' case and take the benefit of having been busy with some other work. Thus, that he did not upload the documents or that he was busy in some other vocation can hardly be grounds for the petitioner to seek benefit as he was expected to be vigilant and agile in his complying with the pre-requisite mandate as per the advertisement at all times.

13. Given the facts involved, it is not in dispute that after the last date of uploading of the documents as per the advertisement, there was no chance for a candidate like the petitioner to try to upload the requisite documents thereafter, in any manner whatsoever. This is another reason why this Court is unable to come to the aid of the petitioner. Doing so, will not give any sanctity to the advertisement.

14. Accordingly, in view of the aforesaid facts and discussions coupled with the reasons thereof, this Court, finds no reason for allowing the present petition. As such, the present petition, alongwith the applications if any, is dismissed leaving the parties to bear their own respective costs.

SAURABH BANERJEE, J.

V. KAMESWAR RAO, J.

FEBRUARY 19, 2024/rr