



2024:DHC:7011-DB



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

+ **W.P.(C) 12668/2024 & CM APPL. 52702/2024 (Exemption)**

JATIN GROVER

.....Petitioner

Through: Mr. Dinesh Malik, Mr. Akash Saini, Mr. Puneet Jain and Mr. Lavish Arora, Advocates alongwith Petitioner in person.

versus

**INDIAN RENEWABLE ENERGY DEVELOPMENT
AGENCY LIMITED IREDA & ORS.**

.....Respondents

Through: Mr. Apoorv Kurup, CGSC with Mr. Gurjas Narula, Advocate and Mr. Rudra Paliwal, G.P. for UOI/R-2, 3 & 4.

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Date of Decision: 10th September, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present Public Interest Litigation (PIL) has been filed under Article 226 of the Constitution of India seeking a writ of mandamus challenging the recruitment process as well as the recruitment policy of the respondent no.1- Indian Renewable Energy Development Agency Limited (IREDA). The

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petitioner further seeks setting aside of the Recruitment Circular No. IREDA/RECRUITMENT/HR/01/2021 as also the appointments made by respondent no.1 under the campus placement in 2018 and 2021, in particular, from Xavier Institute of Management, Bhubaneswar; cancellation of recruitment of respondent nos.9 to 30 being illegal and attracting favoritism; suspension of IREDA Board; and a direction to respondent no.1 to frame a fair and transparent recruitment policy. It also seeks a direction to respondent no.3- Department of Public Enterprises to constitute a Board for selection of candidates for all positions of PSU under it.

2. From a perusal of the prayers, it is observed that the present PIL seeks cancellation of the Recruitment Policy as well as the appointments made under it for the years 2018 and 2021, apart from other reliefs. The law in this regard is very clear, that, a PIL is not maintainable in service matters. In ***Dr. Duryodhan Sahu vs. Jitendra Kumar Mishra, (1998) 7 SCC 273***, the Supreme Court while dealing with an issue as to whether a PIL at the instance of a stranger could be entertained, has held that in service matters, PIL should not be entertained. The said ratio has been reiterated by the Supreme Court time and again in ***Dr. B. Singh vs. Union of India, (2004) 3 SCC 363***; ***Ashok Kumar Pandey vs. State of West Bengal, (2004) 3 SCC 349*** and ***Seema Dharmdhare, Secretary, Maharashtra Public Service Commission vs. State of Maharashtra, (2008) 2 SCC 290***. The relevant paragraph of the judgement in ***Dr. B. Singh (supra)*** is extracted hereunder:

“16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large



number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra [(1998) 7 SCC 273] this Court held that in service matters PILs should not be entertained, the inflow of the so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.”

3. Thus, keeping in view the aforesaid ratio, the present petition in the nature of a PIL is not maintainable.

4. A perusal of the record also shows that even on facts, the present PIL is not maintainable. The respondent no.1 vide recruitment no. IREDA/RECRUITMENT/HR/01/2021 invited applications for the posts on regular as well as contractual basis to which the petitioner had also applied. As the petitioner did not make it to the final list, he filed a writ petition being W.P.(C) 6884/2022 titled *Jatin Grover vs. IREDA & Ors.*, challenging the recruitment process of respondent no.1. The said writ petition was dismissed



vide order dated 15th December, 2023 reiterating the settled principle of law that a person having participated in the selection process without any demur or protest is precluded from challenging the said selection process. The Court also noted that though the petitioner had challenged the recruitment process of respondent no.1, yet, had not challenged the Recruitment Policy through which the said manner of recruitment stems.

5. The law on the subject has been crystallized in several decisions of the Supreme Court and various High Courts in ***Chandra Prakash Tiwari vs. Shakuntala Shukla***, (2002) 6 SCC 127; ***Ramesh Chandra Shah v. Anil Joshi***, (2013) 11 SCC 309; and ***Karan Singh Meena vs. Registrar General, Delhi High Court & Anr.***, 2022 SCC OnLine Del 3098. Relevant paragraph of the judgement of a Co-ordinate Bench of this Court in ***Karan Singh Meena*** (*supra*) is extracted hereunder:

“25. It is also relevant to emphasise that the petitioner had not challenged the scheme of the examination at the material time. The petitioner had participated in the examination unreservedly. It is well settled that it is not open for a candidate, who participated in the selection process, to subsequently challenge the same once he has been declared unsuccessful. The law on this subject is discussed comprehensively in the recent decision of the Supreme Court in Ashok Kumar v. State of Bihar (supra). We need to do no more but to quote the following extract from the said decision:

“12. The appellants participated in the fresh process of selection. If the appellants were aggrieved by the decision to hold a fresh process, they did not espouse their remedy. Instead, they participated in the fresh process of selection and it was only upon being unsuccessful that they challenged the result in the writ petition. This was clearly not open to the appellants. The principle of estoppel would operate.

13. The law on the subject has been crystallised in several decisions of this Court. In Chandra Prakash Tiwari v. Shakuntala Shukla, this Court laid down the principle that when a candidate appears at an examination without objection and is subsequently found to be not successful, a challenge to the process is precluded. The question of entertaining a petition challenging an examination would not arise where a candidate has



appeared and participated. He or she cannot subsequently turn around and contend that the process was unfair or that there was a lacuna therein, merely because the result is not palatable. In Union of India v. S. Vinodh, this Court held that :

“18. It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same. (See Munindra Kumar v. Rajiv Govil and Rashmi Mishra v. M.P. Public Service Commission)”

14. The same view was reiterated in Amlan Jyoti wherein it was held to be well settled that the candidates who have taken part in a selection process knowing fully well the procedure laid down therein are not entitled to question it upon being declared to be unsuccessful.

15. In Manish Kumar Shahi v. State of Bihar, the same principle was reiterated in the following observations :

“16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the petitioner is not entitled to challenge the criteria or process of selection. Surely, if the petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The petitioner invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition. Reference in this connection may be made to the judgments in Madan Lal v. State of J&K, Marripati Nagaraja v. State of A.P., Dhananjay Malik v. State of Uttaranchal, Amlan Jyoti Borooah v. State of Assam and K.A. Nagamani v. Indian Airlines.”

16. In Vijendra Kumar Verma v. Public Service Commission, candidates who had participated in the selection process were aware that they were required to possess certain specific qualifications in computer operations. The appellants had appeared in the selection process and after participating in the interview sought to challenge the selection process as being without jurisdiction. This was held to be impermissible.

17. In Ramesh Chandra Shah v. Anil Joshi, candidates who were competing for the post of Physiotherapist in the State of Uttarakhand participated in a written examination held in pursuance of an advertisement. This Court held that if they had cleared the test, the respondents would not have raised any



objection to the selection process or to the methodology adopted. Having taken a chance of selection, it was held that the respondents were disentitled to seek relief under Article 226 and would be deemed to have waived their right to challenge the advertisement or the procedure of selection. This Court held that :

“18. It is settled law that a person who consciously takes part in the process of selection cannot, thereafter, turn around and question the method of selection and its outcome.”

18. In Chandigarh Admn. v. Jasmine Kaur, it was held that a candidate who takes a calculated risk or chance by subjecting himself or herself to the selection process cannot turn around and complain that the process of selection was unfair after knowing of his or her non-selection. In Pradeep Kumar Rai v. Dinesh Kumar Pandey, this Court held that :

“17. Moreover, we would concur with the Division Bench on one more point that the appellants had participated in the process of interview and not challenged it till the results were declared. There was a gap of almost four months between the interview and declaration of result. However, the appellants did not challenge it at that time. This, it appears that only when the appellants found themselves to be unsuccessful, they challenged the interview. This cannot be allowed. The candidates cannot approbate and reprobate at the same time. Either the candidates should not have participated in the interview and challenged the procedure or they should have challenged immediately after the interviews were conducted.”

This principle has been reiterated in a recent judgment in Madras Institute of Development Studies v. K. Sivasubramanian.”

6. Thus, it is trite law that petitioner having participated in the recruitment process without any objections and subsequently, having found to be unsuccessful, cannot lay a challenge to the said selection process.

7. The petitioner had filed an appeal being LPA No. 247/2024 titled as *Jatin Grover Vs IREDA & Ors* against the order dated 15th December, 2023 passed in W.P.(C) 6884/2022. However, the petitioner sought the permission to withdraw the said appeal to take the effective legal remedy before the appropriate Court as per law. Thereafter, the present PIL has been filed.



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8. In view of the aforesaid reasoning and settled principles of law, the present PIL is dismissed being non-maintainable.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 10, 2024/rl

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