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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32321-2024(O&M)
Date of decision:-21.11.2025

Rahul Raj Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Babbar Bhan, Advocate,
Mr. Jagdeep S. Rana, Advocate and
Mr. Arvind K. Bangar, Advocate
for the petitioner.

Mr. Ravish Kaushik, Addl. A.G., Haryana.

Mr. Naman Jain, Standing Counsel
for respondent No.2.

Mr. Sunish Bindlish, Senior Advocate with
Mr. Udit Jain, Advocate
for respondent No.4.

SUVIR SEHGAL, J.(ORAL)

CM-16714-2025

1. Application is allowed, as prayed for.
2. Annexures P23 to P33, are taken on record.



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3. This petition has been filed, *inter alia*, for issuance of a writ in the nature of quo warranto for quashing the appointment of respondent No.4 as Assistant Lecturer-cum-Assistant Instructor under the ESM (Ex-Servicemen) General quota. Petitioner has also sought issuance of a writ in the nature of mandamus directing the official respondents to hold an inquiry and initiate action against officials, who acted in collusion with respondent No.4 in getting him appointed.

4. Counsel for the petitioner states that petitioner is a Lecturer in the Institute of Hotel Management, Catering Technology and Applied Nutrition, Kurukshetra (hereinafter referred to as “the institute”). He submits that respondent No.4 was working as an F&B Manager in a restaurant, “The Sound of India” in Singapore, when he applied and was appointed vide letter dated 02.05.2012, Annexure P3 to the post of Assistant Lecturer–cum–Assistant Instructor in the institute. Counsel states that on the basis of a complaint, respondent No.4 was charge-sheeted on 10.08.2022 and petitioner was appointed as Presenting Officer. After inquiry, a speaking order dated 10.04.2024, Annexure P8, was passed and complaint was filed. Counsel asserts that brother of respondent No.4, namely, Sandeep Kumar, was appointed as a Constable with the Haryana Police under the ESM dependent quota and respondent No.4 has taken the benefit of the quota in violation of instructions dated 23.01.2008, Annexure P32, passed by the



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Government of Haryana. Counsel stresses that respondent No.4 furnished a false affidavit dated 17.08.2020, Annexure P33, stating that no other family member or dependent had availed of the ESM category benefit for employment. Counsel has asserted that suitable action deserves to be taken against the members of the screening committee, who have submitted a report regarding eligibility of respondent No.4 as well as other officials, who have aided respondent No.4 in getting employment with the institute. Placing reliance upon a judgment of the Hon'ble Supreme Court in ***Dr. Premachandran Keezhoth and another Versus Chancellor, Kannur University and others***, 2023 SCC Online SC 1592, counsel has contended that a writ in the nature of quo warranto is a judicial remedy against an intruder or usurper of an independent substantive public office. He argues that a writ is maintainable against the institute, respondent No.2, which is a society registered under the Societies Registration Act, 1860 and is functioning under the aegis of the Department of Tourism, Government of Haryana. Reference has also been made by him to ***Kuldeep Versus State of Haryana and others, Law Finder Doc. Id # 2773510*** to urge that fraud played by respondent No.4 deserves to be inquired into even though he has been serving for more than a decade.

5. Writ petition has been contested by the respondents.

6. A short reply has been filed on behalf of institute, respondent No.2, stating that petition is malafide and the present dispute is a result of personal and professional rivalry between petitioner and



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respondent No.4. It has been averred that both of them have lodged multiple complaints against each other and petitioner has also circulated defamatory posts on the social media. It has been further stated that respondent No.4 has been named as a prosecution witness against the petitioner in a criminal case, Annexure R1. In a separate short response filed on behalf of Zila Sainik Board, respondent No.3, it has been submitted that the disputed ESM certificate has been issued for establishing the relationship between Ex. Hawaldar Sohan Lal and respondent No.4, but it is not an “Eligibility Certificate”, which is an essential requirement for getting employment with the Government.

7. Although respondent No.4 has not filed any response, learned Senior counsel representing him has argued that the post of Assistant Lecturer is not a public post and a writ of quo warranto is not maintainable. He has drawn strength from the following judgments:

(i) ***Dr. Neetu Singh Versus State of U.P. Thru Secretary Medical Health and others, 2019, SCC Online All 5871;***

(ii) ***Shri H.T. Umesh and others Versus State of Karnataka and Ors., Law Finder Doc. Id # 2717915;*** and

(iii) ***Ashutosh Mishra Versus The Vice Chancellor, Kurukshetra University and others, Law Finder Doc. Id # 2782789.***

8. It is also his argument that as writ petition is not maintainable, Court should not proceed to examine the merits of the petition. Reference has been made by him to:

(i) ***Kanjamally Mudaliar Charitable Trust Versus State of Tamil***



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Nadu, Law Finder Doc. Id # 2086456;***(ii) Amitava Chaudhury and another Versus Union of India and others, Law Finder Doc. Id # 2723342.***

9. This Court has considered the arguments addressed by counsel for the parties and has given thoughtful consideration to their submissions besides examining the documents relied upon by them.

10. In ***Dr. Premachandran's case*** (supra), Supreme Court held that quo warranto is a judicial remedy against an intruder or usurper of an independent substantive public office or franchise or liberty. A usurper is asked as to 'by what authority' (quo waranto) he is in such office or liberty. Writ of quo warranto thus poses a question to the holder or occupier of a public office and the question is as to where is your warrant of appointment by which you are holding the office. If the answer is not satisfactory, the usurper can be ousted by such a writ. Supreme Court clarified that quo warranto is a remedy or procedure whereby legality of the claim which a party asserts to an office or franchise is inquired into and to oust him from its employment if the claim is not well founded. It is a writ which lies against a person, who is not entitled to hold an office of public nature or is only a usurper of the office. Quo warranto is directed to such a person, who is required to show by what authority he is entitled to hold the public office or post. Accordingly, the first question to be determined is as to whether the post of Assistant Lecturer-cum- Assistant Instructor is a public office or a public post.



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11. In *Dr. Neetu Singh's case* (supra), a Division Bench of Allahabad High Court was called upon to decide as to whether the post of Professor in King George's Medical University, which is a statutory body constituted under a State legislation providing medical education and treatment to the public, is a "public office". Division Bench observed that it is a trite law that in order to maintain a writ of quo warranto, it has to be established that the post held by the alleged usurper is a public office and the same is of a public nature. If this condition is satisfied, only in such a case, Court may proceed to inquire as to whether the appointment to the public office is really in violation of the statutory rules and regulations or any provision of law. The Court examined the statutory provisions of the Uttar Pradesh King George's Medical University Act, 2002 as well as various judicial pronouncements. It was culled out that a particular function can be described as a sovereign function depending upon the nature of power and the manner in which it is exercised. All welfare activities of the State cannot be construed to be a sovereign exercise of power and every government function need not be sovereign. The mere fact that one is an employee of a statutory board would not *ipso facto* mean that the function exercised by such an employee is sovereign in nature. The Court summarized that the post of Professor in the University cannot be held to be a public office merely because the University imparts education and is a statutory body. Allahabad High Court held that office of professor does not seem to involve any obligation of any sovereign



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function of the government either executive or legislative or judicial for public benefit.

12. A Division Bench of Karnataka High Court in ***Shri H.T. Umesh's case*** (supra) held that a writ of quo warranto cannot be issued against Associate Professors or Professors as these posts do not classify as public offices under the law. The relevant observations of the Karnataka High Court, are reproduced hereunder:

“6.1 An Associate Professor or the Professor, as respondent No.5 is, may be part of the faculty, but for all purposes including functional, he is an employee of the University. The lecturers, the assistant professors or associate professors bear jural relationship with the University and that relationship is only of employee-employer. An Associate Professor or Professor has no public function to discharge. An Associate Professor or Professor does not interact publicly in his duties nor discharge duties in public domain. Their post cannot be characterised or classified as public office contemplated and as understood for the purpose of issuance of writ of quo warranto.

6.2. The concept of public office in general context as well as in the concept of quo warranto in particular is presupposed to be a post or office which have a clear public trappings. It must be a post or office where the incumbent is associated with duties of public nature. The functional realm of the order of office should be one to travel to public domain. Professors, readers or teachers cannot be grouped to



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treat them in the category. By no stretch of imagination, for their very nature of post and the work and duties attached, they cannot become holders of public office.”

13. Relying upon the aforesaid observations, this Court in ***Ashutosh Mishra’s case*** (supra) held that a lecturer is not a holder of public post and a writ of quo warranto cannot be maintained questioning his appointment. These judgments squarely apply to the factual position of the present case and this Court unhesitatingly holds that the post of Assistant Lecturer–cum–Assistant Instructor held by respondent No.4 would not qualify as a public post or public office and a writ of quo warranto questioning his appointment is not maintainable. Since this Court has reached the conclusion that this petition is not maintainable, it is not necessary to examine the merits of the claim raised by the petitioner doubting the eligibility of respondent No.4.

14. There is another aspect of the matter. A categorical stand has been taken that respondent No.4 is a witness cited by the prosecution in a criminal case registered against the petitioner, and this crucial fact has been suppressed while filing the instant petition. Reference has been made to interim order dated 27.05.2025 passed by this Court, which deserves to be noticed and is reproduced hereunder:

“There is no representation on behalf of respondents No. 3 & 4, today in Court.

Through the instant petition, the petitioner has invoked the jurisdiction of this Court by filing writ of quo



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warranto against private respondent No.4, for holding the post of Assistant Lecturer-cum-Assistant Instructor at Institute of Hotel Management, Catering Technology and applied Nutrition, Kurukshetra, and further for issuance of mandamus upon respondent No.4, to hold an inquiry into the matter, and initiate legal action against all the erring officials, who are in collusion with respondent No.4, for getting him appointed on the aforesaid post.

In the instant petition, notice of motion was issued vide order dated 29.11.2024 by Co-ordinate Bench of this Court. Today, Mr. Pankaj Mulwani, DAG, Haryana has caused appearance on behalf of respondent No. 1, and Mr. Naman Jain, Advocate has caused appearance on behalf of respondent No.2. Mr. Naman Jain, Advocate, at the very outset, submits that though he reserves his right to file detailed reply, but he referred to a order passed by Co-ordinate Bench vide order dated 05.03.2025, in CRM-M-11109-2024, to inform this Court that respondent No.4, whose appointment is put to challenge through the instant petition, is in fact a prosecution witness against the petitioner, in case FIR No. 237 dated 21.10.2022, registered under Sections 354-D, 506, 509 and 34 IPC at Police Station Women, NIT Faridabad. He further submits that since the petitioner is facing trial in abovesaid case, therefore, by filing instant petition, his only attempt is to threaten the prosecution witnesses, so that they may not develop the courage to appear before the Court concerned during trial.

At this stage, this Court has put a specific query to the learned senior counsel for the petitioner, as to whether, the petitioner has disclosed the factum of pendency of the criminal trial against the petitioner, as well



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as respondent No.4, being the prosecution witness, to which he answered in a negative. Prima facie, this Court is of the view that under the garb of writ of quo warranto, the petitioner has some hidden agenda, primarily to deter the prosecution witnesses to depose against him. Though, the law is very clear with regard to the writ of quo warranto, that locus is not a requisite ingredient, however, invocation of writ of quo warranto on the part of a person, who has a hidden agenda, has also been deprecated by the Hon'ble Supreme Court, and this Court in number of judgments. Before, this Court take further necessary action against the petitioner, let a 'show cause notice' be served upon him to inform the reasons for concealing the relevant facts from this Court, which is very much in the knowledge of the petitioner.

Adjourned to 13.08.2025.”

15. In response, petitioner has filed a reply to the show-cause notice, which makes an interesting reading. The relevant extract of the reply is reproduced hereunder:

“3. That while issuing showcause notice to the petitioner vide order dated 27.05.2025, this Hon’ble Court has taken a view that the petitioner has not disclosed the fact of pendency of FIR No.237 dated 21.10.2022 registered under Sections 354-D, 506, 509 and 34 IPC at Police Station Women, NIT Faridabad, wherein respondent No.4 is a witness against him and the present petition has been filed by the petitioner to deter him to depose against him. It is most humbly submitted that the petitioner had



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no such intention either to prevent the respondent No.4 to depose against him or to mislead this Hon'ble Court. It was purely on account of bonafide mistake and lack of legal knowledge that the petitioner failed to disclose the pendency of the aforesaid FIR."

x x x

16. Besides claiming to be a vigilant citizen and making a reference to 17 complaints/proceedings instituted by him, petitioner has explained as under:

"5. That the petitioner humbly submits that the Hon'ble Apex Court has held that the petitioner is not legally bound to disclose the pendency of criminal case if it has no connection whatsoever with the issue raised in the petition (i.e. the validity or legality of another person's appointment to a public office). There is no connectivity of the lis involved in the present writ petition and the FIR against the petitioner....."

17. Perusal of the above reproduced stand taken by the petitioner shows that whereas on one hand he has claimed lack of legal knowledge despite the fact that he has filed seventeen cases before different Courts and on the other hand the stand taken by him is that it is not necessary for him to reveal the pendency of the criminal case as it has no connection with the issue. Petitioner has further stated that he was not aware of the fact that respondent No.4 has been mentioned as a witness against him till the time he received a copy of the challan filed



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in the FIR. Petitioner's stand is belied by the factual position. This writ petition was preferred by the petitioner in the month of November, 2024. The proceedings before the Trial Court show that the challan had been filed much prior thereto. On 05.07.2024, Trial Magistrate recorded that IO Paramjit Kaur has appeared in the Court in pursuance to a show-cause notice issued against her and has apologised for delay in filing the complete challan. Learned Magistrate further recorded that a complete copy of the challan has been placed on the record and copy has been supplied to the accused, which has been accepted by their respective counsel vide a separate statement recorded to this effect. It is, therefore, evident that the petitioner was well aware on 05.07.2024 that respondent No.4 has been named as a witness by the prosecution in the criminal case wherein petitioner is the main accused. Petitioner has deliberately withheld these vital facts. It is clear that the petitioner has approached this Court with tainted hands by suppressing critical facts. It is, therefore, obvious that the instant petition is vexatious and an attempt to browbeat a material prosecution witness. Petition is being actuated by ill will and has been instituted with an oblique motive. On being granted an opportunity to explain the concealment, petitioner has taken contradictory stand. Petitioner has abused the process of the Court. Such a conduct cannot be taken lightly and has to be dealt with an iron hand. Present petition is, therefore, deserves to be dismissed with cost in order to deter persons like the petitioner from taking an undue advantage of Court's process.



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18. For the foregoing reasons, writ petition is dismissed. Petitioner is fastened with cost which are quantified as Rs.25,000/- to be deposited with the “Armed Forces Flag Day Fund (Account No.65239030779), SBI, Sector – 20-D, Chandigarh, (IFSC Code SBIN0051273)”.

21.11.2025
Brij

(SUVIR SEHGAL)
JUDGE

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No