

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 969 of 2023****MANISH KUMAR YADAV *versus* FOOD CORPORATION OF INDIA****WPS/1144/2024,WPS/1143/2024****Order Sheet**

07/08/2024	Mr. Naushina Afrin Ali, Advocate appeared through V.C., Mr. Ajay Kumrani, Advocate and Mr. Bharat Sharma, Advocate for their respective petitioners. Mr. Prafull N. Bharat, Senior Advocate along with Mr. R. S. Patel, Advocate for the respondents. This Court on 12.06.2024 passed the following order:- “The petitioners have filed these writ petitions assailing the notice dated 12.01.2023 by which the respondents have withdrawn the advertisement dated 02.09.2017. The ground of assailing the notice and also prayed for subsequent declaration of the result of written examination for the post of watchman. The brief facts as reflected from the record is that the respondent Food Corporation of India has issued



advertisement for appointment on the post of watchman on 19.08.2017 and a corrigendum dated 02.09.2017. As per the norms of the examination, the examination has to be conducted in two phase, first phase is the written examination and thereafter physical test. All the phase of the examination has to be conducted by the Attest Testing Services Limited, A-65, MIDC, Marol, Andheri (East), Mumbai [renamed as M/S M.E.L. Training and Assessments Limited (Previously Maya Entertainment Ltd in which Attest Testing Services Ltd got merged), having its registered office at A-65 MIDC Marol Andheri (East), Mumbai) which is private organization, accordingly the examination was conducted. It was revealed to the respondent Food Corporation of India that some irregularities have been committed.

Thereafter, the respondents have cancelled the advertisement dated 02.09.2017, advertisement dated 19.08.2017 and a corrigendum dated 02.09.2017 and by the impugned order dated 12.01.2023 (Annexure P/1) the respondent has withdrawn the advertisement. Being aggrieved with this order, the petitioners have preferred the writ petitions wherein this Court has passed certain directions.

The record of the case would show that earlier a WP(S) No. 1851/2021 was filed wherein this Court on 25.03.2021 has passed the following order:-

"2. However, perusal of the pleadings of the writ petition itself would show that the matter of recruitment of Watchman by the respondents in Chhattisgarh region was subjected to a CBI investigation on account of certain complaints of illegalities and corruption leveled in the course of recruitment. That since the matter is under CBI investigation, the authorities of the respondents have laid their hands off. Even otherwise since the matter is under CBI investigation further order is also not communicated to the respondents from the CBI to proceed further with the recruitment process. The respondent-authorities therefore cannot be blamed for not further proceedings with the recruitment process"

Thereafter a Review Petition No.104/2021 was also



preferred wherein this Court on 09.07.2021 has passed the following order:-

"5. Mr. R.S. Patel, learned Counsel for Respondent - Food Corporation of India, has filed their reply to the present Review Petition categorically stating that though there is no CBI investigation and the said observation in the order has been crept in on account of certain incorrect statement made by Petitioners, however, there is no such enquiry/investigation in respect of alleged complaint received from the Chhattisgarh region of mass copying/other malpractices detected in the recruitment process and the matter has already been sent for expert report to the Central Forensic Science Laboratory, Hyderabad and the Department would be taking a decision immediately on receipt of the report from the said Laboratory. He further submits that they have also sent a reminder to the Laboratory for an expeditious submission of report."

Thereafter petitioners have preferred a writ appeal No. 220/2021 before the Hon'ble Division Bench wherein the Hon'ble Division Bench on 10.08.2021 has passed the following order:-

"6. Having heard Shri Parag Kotecha, learned counsel for the appellants and learned Standing counsel for the F.C.I., we are of the view that no interference in this intra Court appeal is called for. Once statement has been made by learned Standing counsel for the F.C.I., we hope that the F.C.I. shall proceed further in the matter immediately on receipt of report from Central Forensic Science Laboratory, Hyderabad. If the recruitment process remains pending for unreasonably long period, the petitioner would be at liberty to move afresh before this Court."

But the order passed by the Hon'ble Division Bench has not been given effect and the proceeding was kept in abeyance. In the meanwhile vide 12.01.2023 (Annexure P/1) notice was issued for cancelling the entire selection process, thereafter, the present writ petitions filed by the petitioners assailing the said notice where



the advertisement was cancelled.

The respondents have already filed return in which they have categorically stated that initially there was doubt over the 47 candidates, thereafter, the matter referred to Bhopal and subsequently sent to Hyderabad for verification wherein again some doubt was raised with regard to 27 candidates still the respondents have not open the result.

Considering this aspect of the matter it is directed that the respondents will issue the result of the examination conducted by the Attest Testing Service Limited, A-65, MIDC Marol, Andheri (East). Mumbai (renamed as M/S M.E.L. Training and Assessments Limited (Previously Maya Entertainment Ltd in which Attest Testing Services Ltd got merged), having its registered office at A-65 MIDC Marol Andheri (East), Mumbai) will declare the result and the institution Attest Testing Service Limited, A-65, MIDC Marol, Andheri (East), Mumbai will be handed over the entire records to the Food Corporation of India within 15 days from the receipt of copy of this order and thereafter, within 4 weeks the respondent Food Corporation of India will declare the result of the candidates. It is made clear that this Court has not recorded any finding with regard to the counter allegation made by both the parties, this will be examined when the matter will be finally heard.

It is directed that the respondent shall declare the result of undisputed candidate only within the time period given by this Court, it has also been brought to the notice of this Court that the agency which has now renamed as M/S M.E.L. Training and Assessments Limited has filed a writ petition before this Court wherein they have assailed their black listing order by filing the writ petition and wherein the interim order has passed by this Court on 02.04.2024. It is made clear that the handing over of the documents alongwith the marks obtained by each of the candidates will not have any effect over the action taken by the Food Corporation of India against this M/S M.E.L. Training and Assessments Limited, as it is a separate cause of action, this Court is only examine the issue with regard



	to the correctness and validity of the examination conducted by them only.” Learned counsel for the petitioner submits that the interim order has not been complied with by the Respondent-FCI. Learned Senior Counsel submits that the writ appeal has been filed, however, no interim order has been passed in the writ appeal. Learned Senior Counsel further submits that the necessary documents have not been received from the examination conducting agency. When there is no interim order passed in the writ appeal, the order passed by this Court has not been stayed, in all fairness, the efforts should have been made by the Food Corporation of India (FCI) to comply the said order. Let an affidavit of the competent officer be filed by Friday i.e. 09.08.2024 to indicate that what efforts have been made by the respondent-FCI to comply with the order dated 12.06.2024 passed by this Court. Mr. Tanmay Thomas, Advocate appears on behalf of the Examination Conducting Agency and submits that though the examination conducting agency is not arrayed as a party in this petition, but he may be permitted to make his submissions. Mr. Tanmay Thomas, Advocate is allowed for making his submissions. Mr. Thomas submits that the examination conducting agency has received the e-mail last night.
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Abhigya.S	His statement is taken on record. Name of Mr. Tanmay Thomas be published in the cause-list. This Court directs the petitioner to array the examination conducting agency as a party-respondent. Mr. Thomas is also directed to seek instructions and file short submissions with regard to the compliance of the order dated 12.06.2024. List this case on Monday i.e. 12.08.2024. Sd/- (Sachin Singh Rajput) Judge
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