

M/s J.K. Enterprises Opposite Ice Skating Ring Lakkar Bazar, Shimla vs. State of H.P. & anr.

CWP No. 14512 of 2024

03.12.2024 **Present:** Mr. Sanjeev Kumar Suri, Advocate, for the petitioners.

Mr. Anup Rattan, Advocate General, with Mr. rAkesh Dhaulta, Mr. Govind Korla, Additional Advocates General and Ms. Priyanka Chauhan, & Mr. Arsh Rattan, Deputy Advocates General, for respondent No.1.

Ms. Tim Saran, Advocate, for respondent No.2.

CWP No.14512 of 2024 and CMP No.23306 of 2024

Issue notice. Ms. Priyanka Chauhan, learned Deputy Advocate General and Ms. Tim Saran, Advocate, appear and waive service of notice on behalf of respondents No. 1 and 2, respectively.

2. Learned Additional advocate general has handed over copy of the Standard Operating Procedure, i.e S.O.P for allotment of Manpower job alongwith certain documents including copy of the Tripartite Agreement.

Clause 14 whereof reads as under:

14.1 The Agency may publish an advertisement for walk-in-interview/written test notice in local or national news papers and may upload advertisement on websites. The selection committee may comprise of members of HPSEDC/Borrowing Department, if required or decided by HPSEDC/Borrowing Department.

14.2. Selected candidates will be deployed the AGENCY at locations/departments as per requirement of HPSEDC on outsource basis.

14.3. In special case as need arise, separate interview can be arranged on mutually agreed terms.

2. We are rather shocked to note with the mode and manner in which selection procedure has been prescribed for by the State. What still makes the matter worse is that under the instructions dated 1.12.2021 (P-4), it is the Service Provider, who has been made the Principal Employer under the Contract Labour (Regulation and Abolition) act, 1970.

3. We have the names of 36 vendors before us that have been approved by the H.P. State Electronic Development Corporation. *Prima facie*, a perusal of the list goes to indicate that many of them have nothing to do with recruitment and have never handled any matter of recruitment. Leave alone, there could be cases, where the proprietors of these firms are totally illiterate or semi literate themselves, but astonishingly have been assigned with the task of making recruitment to responsible post such as Law Officers, Nurses, Doctors etc. etc. Even in this case, it is candidly admitted by learned counsel for the petitioners that petitioner No.1 in fact was in the marketing business "Phenyl"

4. It is more than settled that even recruitments on stop gap arrangement have some semblance of being made in accordance with law may be not strictly in accordance with the Recruitment and Promotion Rules.

5. Reply/instructions be filed/obtained within a period of four weeks. In the meanwhile, respondent No.2

shall provide man power on out source basis strictly in accordance with the provisions of the Himachal Pradesh Financial Rules, 2009.

6. List on 31.12.2024.

(Tarlok Singh Chauhan)
Acting Chief Justice.

(Satyen Vaidya)
Judge

December 03, 2024 *(veena)*