

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 1102/2004

Dilip Kumar Sharma And Ors
-----Petitioner
Versus
State Of Raj And Ors
-----Respondent

Connected With

S.B. Civil Writ Petition No. 9208/2002

Ramesh Chandra Pareek And Ors
-----Petitioner
Versus
Secretary Panchayati Raj And Pri
-----Respondent

S.B. Civil Writ Petition No. 9368/2006

Babulal Yadav
-----Petitioner
Versus
State
-----Respondent

For Petitioner(s)	:	Mr. Devendra Kumar Bhardwaj Mr. Raghunandan Sharma with Mr. Jag Mohan Saxena
For Respondent(s)	:	Mr. B.s Chhaba, AAG with Mr. Avinash Choudhary, Mr. Hardik Singh Sp, Dausa, Ms. Ranjeeta Sharma and Mr. Himansu Jain Mr. Ashwini Jiaman Ms. Pratipha Devathia Addl. Dr. of Education Mr. Ghanshyam Meena (DEO) Dausa

HON'BLE MR. JUSTICE SAMEER JAIN

Order

21/05/2024

The instant petition was filed in the Year 2004; although, the *lis* pertains to the Year 1995 qua selection and appointment for the post of PTI-Grade III, Dausa.

During the course of proceedings before this Court, it was observed that certain candidates were granted appointment on the basis of forged documents, bye-passing the settled provisions of law and rules of selection process in an unfair and arbitrary manner.

In this regard, by the directions of this Court, an inquiry was conducted by the Superintendent of Police, in the Year 2012. As a result of the said inquiry, an FIR was registered numbering 3981/2012. It is noted that even after the categoric directions of the Court, the investigation qua the said matter was done at a snail's pace and a vague and fragmented *chalan* was filed, at a belated stage i.e. as late as on 28.07.2021.

In this backdrop, learned AAG has submitted that in the instant matter two FIRs were registered, numbering as under:-

(i) 92/2012

(ii) 398/2012

It is submitted that in the first FIR, after following due procedure for conducting the trial, the co-accused Anil Kumar was discharged and against the said order of acquittal, no appeal or further proceedings are preferred.

Learned counsel further submitted that complying with the directions of the Court, Superintendent of Police has submitted an inquiry report. The relevant portion of said inquiry report is reproduced below:

"12240/7/73-95-98 दिनांक 26.04.1995 द्वारा जारी निर्देश एवं राजस्थान अधिनस्थ शिक्षा सेवा

1971 के तहत शारिरिक शिक्षा भर्ती प्रक्रिया पूर्ण करनी थी परंतु तत्कालीन जिला शिक्षा अधिकारी मा० दौसा द्वारा नियुक्ति प्रक्रिया का पालन नहीं किया गया है। वरियता निर्धारण समिति

द्वारा 570 आवेदन पत्रों का अवलोकन कर तैयार अस्थायी वरियता सूचि को नोटिस बोर्ड पर चस्पा

कर अभ्यर्थियों से आपत्तियां मांगनी थी एवं आपत्तियों का निराकरण कर स्थाई वरीयता सूची जारी करनी थी अगर उक्त प्रक्रिया विधिवत पूरी होती तो जो त्रुटियाँ थी उनकी उसी वक्त सुधार हो

जाता नियुक्ति अधिकारी द्वारा गठित राज० अधिनस्थ सेवा नियम 1971 के तहत चयन समिति

जिसमें 3 सदस्य 1— संयोजक एवं नियुक्ति अधिकारी 2— जिला शिक्षा अधिकारी छात्र / प्राथमिक शिक्षा 3— संबंधित उपनिदेशक द्वारा मनोनित प्रधानाध्यापक स्तर का अधिकारी होता अधिकारी द्वारा स्थायी वरीयता सूची में से 83 शारिरिक शिक्षकों को रोस्टर के मुताबिक चयन करता एवं आवेदन

को प्राप्तांक प्रतिशत में लाभ देने बाबत अभ्यर्थी कृष्णावतार शर्मा व विष्णु शर्मा का प्राप्तांक प्रतिशत

800 होने के बावजूद 750 में से निकाला है। उक्त आवेदन फॉर्मों पर श्री रामजीलाल मीणा

अध्यापक व तत्कालीन जिला शिक्षा अधिकारी दौसा व ताराचंद जैन प्रधानाचार्य के हस्ताक्षर है, चूंकि

उक्त छात्र कृष्णावतार शर्मा द्वारा नौकरी ज्याईन नहीं की एवं विष्णु पुत्र भगवती शर्मा का प्राप्तांक 800 में से भी प्रतिशत निकाला जाता तो उक्त भर्ती में चयन क्रमांक 21 पर होता। 750 में से प्रतिशत निकालने से आरोपी विष्णु शर्मा का चयन क्रमांक 07 प्राप्त हुआ है।

The conclusion qua the said report reflects that the impugned selection process was conducted with certain *malafides* and anomalies, bye-passing the settled provisions of law.

At this juncture, learned counsel for the petitioner has placed reliance upon the said report and has opposed the contentions made by the learned counsel for the respondents. It was contented that when it is made evident, that the selection process was carried out with certain *malafides*, then the prayer sought, should be allowed.

In light of the aforesaid facts and circumstances, this Court directs the respondents to file an appropriate affidavit encapsulating their submissions noted above.. Physical presence

of SP, Dausa is relaxed, though it is directed that on the next date, she shall be present through VC.

Officer In-charge to remain present in the Court with relevant documents.

List the matter on 31.05.2024 in the supplementary list.

(SAMEER JAIN),J