

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

For Petitioner(s)	:	Mr. Raghunandan Sharma Mr. Jagmohan Saxena Mr. Devendra Kumar Bharadwaj
For Respondent(s)	:	Mr. C.L. Saini, AAG Mr. Himanshu Jain Mr. Ashwini Jaiman

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

19/01/2023

While deciding this petition on 13.07.2012, this Court passed the following order:

“In view of the facts narrated above, it is a case where it is none else but official respondents are instrument to promote and continue illegal and irregular appointment despite a report indicating use of forged documents to get bonus marks thereby less meritorious candidates could get appointment leaving meritorious candidates like petitioners. This Court issued direction to the Commissioner as well as Principal Secretary of the Department concerned with a hope that a proper action would be taken in the matter so that those

who could get appointment based on their own merit without indulging fraudulent act may continue leaving those who had taken appointment based on forged documents. There is failure of the administration in carrying out action in the matter and thereby they remain successful in continuing all those candidates who got appointment based on forged documents. The Court, however, cannot shut its eyes on the aforesaid and more so when administration is not taking action effectively, rather their action is not only superficial but half-hearted, therefore, to give effect to the orders passed by this Court earlier, matter needs to be referred to the Superintendent of Police, Dausa with a direction to make complete investigation in the recruitment of the year 1995 to the post of PTI Grade-III in Dausa District and submit its investigation report to this Court so that truth may come as to who is the beneficiary of the appointment based on forged documents and with lower merit leaving those who could get appointment genuinely. The Superintendent of Police, Dausa may register a case separately in the matter with concerned Police Station so that further action may be taken against those candidates and members of the Selection Committee, who were instrument in making illegal and fraudulent appointments. At this stage, investigation report should be placed before this court within a period of two months.

Direction given above is for the ends of justice and to get the truth of the appointment of the year 1995 on the post of PTI Grade-III. This is in the facts and circumstances that there is a failure on the part of the administration to take proper action in the matter, that too, when directions were given even to the higher authorities i.e., Principal Secretary to the Department so as the Commissioner. This Court would then take a view as to what action should be taken against those officers who failed to take prompt action in the matter and for compliance of the direction issued by this Court from time to time. The efforts of the Court is only to see fairness in the action of the administration.

On getting the report, if it is found that certain candidates have been given appointment based on forged documents, then as per the

judgment of the Hon'ble Apex Court in the case of State of Manipur and others versus Y. Token Singh and others reported in (2007) 5 SCC 65, no notice is required to be given to them, rather action for termination of their services may be made by the administration as Principle of natural justice is required to be followed for those who have taken appointment by legal means. It is also made clear that if candidate is found indulged in fraudulent act in securing appointment followed by an action of termination, then resultant vacancy should be filled from those candidates who stand in merit. Direction aforesaid has been given while disposing of the present writ petitions in the peculiar facts and circumstances of the case and for the ends of justice. The writ petitions stand disposed of but be listed before this Court after three months awaiting investigation report by the Superintendent of Police, Dausa. The registry is directed to send a copy of this order to the Superintendent of Police, Dausa for compliance of this order.

This disposes of stay applications also."

In compliance of the directions issued by this Court, the State respondents have submitted compliance report which is not satisfactory.

In view of the factual aspect of the matter, learned Mr. C.L. Saini, Additional Advocate General is directed to call the concerned Superintendent of Police, Director Secondary Education and District Education Officer (Secondary) to remain present before this Court on the next date with all relevant papers relating to the inquiry / investigation conducted against the delinquent persons and what action has been taken against them.

List on 30.01.2023.

(ANOOP KUMAR DHAND),J