

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

It was submitted that selection and recruitment qua the year 1995 with respect to post of PTI Grade-III in Dausa District

Dausa was initiated in the petition. It was submitted that certain candidates were given appointment based on forged documents and by-passing the procedure in illegal and unfair manner. This court while considering the said claim had directed for enquiry to the concerned Superintendent of Police way back in the year 2012 and as a result of which FIR No. 3981/2012 was registered. In spite of the directions of the court, investigation was carried out at a snail and tortuous phase and the challan was submitted as on 28.07.2021 that too in shoddy and bounced manner.

In this background, learned AAG has submitted that in the instant matter two FIRs were registered (i) 92/2012 and (ii) 398/2012. It is submitted by the learned State counsel that in the first FIR, trial has taken place and the single co-accused Anil Kumar Son of Hari Narayan has been discharged. It is submitted that against the order passed on **25.07.2018**, no appeal or further proceedings are preferred.

It is further submitted by the learned AAG that Superintendent of Police under directions of this court has submitted the enquiry report. The relevant portion of which is reproduced as 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 आवदेन 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 वरियता 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 भीणा

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। ”

Upon placing reliance upon the same. It is reflected that the observation of Shri Anil Kumar the then Superintendent of Police, District Dausa, arrived at the conclusion that selection process which was started under the advertisement dated 26.04.1995 qua the physical teachers was not in accordance with law and the due compliance to the specified procedure was not carried out. Detailed findings are specified in the report which prima facie reflects that there were anomalies in the appointment.

In this background, counsel for the petitioner has submitted that once upon directions of this court officer of the Rank of Superintendent of Police has carried out investigation and submitted his report, the entire proceedings are vitiated in this background. The prayer made by the petitioner should be allowed.

It is further submitted by the learned counsel for the petitioner Mr. Sexana that the entire proceedings qua the advertisement in the year 1995 which upon directions of this court in the year 2012 were taken up after a lapse of almost 17 years and the challan filed therein in the year 2021 shows

inefficiency/shoddiness on the part of police authorities and the nature of investigation.

This court considers that appropriate application on affidavit be filed by the petitioners in this regard. Learned Superintendent of Police mark her presence on the given date if there are no exceptional and unavoidable reasons, she can remain present on virtual hearing qua the remaining officer, attendance is relaxed and officer in-charge shall remain present along with records on given date.

List on 31.05.2024 in the supplementary list.

(SAMEER JAIN),J