

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 18606/2023

Anita Kumari D/o Sh. Moolchand

-----Petitioner

Versus

The Union Of India

-----Respondent

Connected With

S.B. Civil Writ Petition No. 18609/2023

S.B. Civil Writ Petition No. 12986/2021

S.B. Civil Writ Petition No. 13250/2021

S.B. Civil Writ Petition No. 13699/2021

S.B. Civil Writ Petition No. 13886/2021

S.B. Civil Writ Petition No. 14137/2021

S.B. Civil Writ Petition No. 14389/2021

S.B. Civil Writ Petition No. 14390/2021

S.B. Civil Writ Petition No. 14599/2021

S.B. Civil Writ Petition No. 14604/2021

S.B. Civil Writ Petition No. 14838/2021

S.B. Civil Writ Petition No. 14839/2021

S.B. Civil Writ Petition No. 14895/2021

S.B. Civil Writ Petition No. 14896/2021

S.B. Civil Writ Petition No. 14897/2021

S.B. Civil Writ Petition No. 15047/2021

S.B. Civil Writ Petition No. 1005/2022

S.B. Civil Writ Petition No. 14693/2023

S.B. Civil Writ Petition No. 19255/2023

S.B. Civil Writ Petition No. 19256/2023

S.B. Civil Writ Petition No. 19257/2023

S.B. Civil Writ Petition No. 19258/2023

S.B. Civil Writ Petition No. 20576/2023

S.B. Civil Writ Petition No. 20798/2023

S.B. Civil Writ Petition No. 77/2024

For Petitioner(s)	:	Ms. Sara Parveen for Mr. T. N. Singh Mr. Sunil Kumar Saini
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For Respondent(s)	:	Mr. Devesh Yadav for Mr. R. D. Rastogi, ASG
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HON'BLE MR. JUSTICE SAMEER JAIN

31/01/2024

1. On 24.01.2024, this Court had heard the rival submissions on the following issue:

"Whether this court lacks territorial jurisdiction to entertain petitions when the recruitment process was held nationwide and the applicants were made to appear before different authorities situated at different States, including the State of Rajasthan, when the primary challenge is to an impugned order issued outside the State of Rajasthan?"

2. Learned ASG, in support of his contention that this Court lacks territorial jurisdiction, made the following submissions:

2.1. The impugned orders have been issued by authorities situated in New Delhi, i.e. by authorities who are situated outside the territorial jurisdiction of this Court. As per Article 226 of the Constitution of India and as per Hon'ble Supreme Court judgments of **Om Prakash Srivastava vs. Union of India & Anr.: (2006) 6 SCC 207**, to seek relief from a High Court, the petitioner has to establish that a legal right claimed by him has *prima facie* been infringed or is threatened to be infringed by *respondent within the territorial limits* of the High Court. Since the primary relief is sought against the authorities/respondents situated in New Delhi, it is contended that this Court lacks the territorial jurisdiction to entertain the present petition.

2.2. Merely because the petitioner is a resident of Rajasthan would not mean that a part cause of action has arisen in the State of Rajasthan. Reliance in this regard is placed on judgment of Hon'ble Supreme Court in the case of **ONGC vs. Utpal Kumar Basu & Ors.: (1994) 4 SCC 711**, judgment of Division Bench of

this Court in **Somya Saxena vs. National Medical Commission & Ors. (DBSAW No. 1312/2022; decided on 06.10.2023)** and judgments of Co-ordinate Bench of this Court in **Nikita Kumari vs. Union of India & Ors. (SBCWP No. 23478/2017; decided on 05.02.2018)**, **Norat Rana vs. Union of India & Ors. (SBCWP No. 13031/2017; decided on 26.04.2023)** and **Chhotu Singh Naruka vs. Union of India & Ors. (SBCWP No. 3904/2005; decided on 07.09.2005)**.

2.3. The question of territorial jurisdiction to entertain a writ petition must be arrived at solely on the basis of averments made in the petition. The High Court can entertain a writ petition only if some material/integral cause of action has arisen in its territorial jurisdiction. Merely because some part of the recruitment process was conducted in the State of Rajasthan, for operational convenience, would not give jurisdiction to this Court to consider challenge to an impugned order which was issued outside the territorial limits of this Court. Reliance is placed on Hon'ble Supreme Court judgments of **Kusum Ingots & Alloys Ltd. vs Union of India: (2004) 6 SCC 254**, **Alchemist Ltd. vs. State of Sikkim: (2007) 11 SCC 335**, and **State of Goa vs. Summit Online Trade Solutions Pvt Ltd & Ors.: (2023) 7 SCC 791**.

3. *Per contra*, learned counsel for the petitioners as well as learned members of the Bar, in support of their contention that this Court would have the territorial jurisdiction to entertain the present petitions, made the following submissions:

3.1. The advertisement dated 28.07.2020 was issued for recruitment on pan India basis. Apart from being permanent

residents of State of Rajasthan, the petitioners (in SBCWP No. 18606/2023 and SBCWP No. 18609/2023) qualified the PET/PST at Alwar (Rajasthan) and the computer test at dedicated centers situated at Sikar (Rajasthan). Further, the petitioners undertook and qualified the trade test in District Supaul (Bihar). Thereafter, the petitioners were called upon to undertake the detailed medical examination at New Delhi. It is contended that the entire recruitment process, though conducted in different States, was as indivisible one. The different stages of the recruitment process were inter-connected and therefore, as per the provision of Article 226(2) of the Constitution of India, even if a fraction of cause of action arises in the territorial jurisdiction of this Court, this Court would have the jurisdiction to entertain the petitions irrespective of location/residence of the respondent-authority.

3.2. Reliance has been placed upon Hon'ble Supreme Court judgments of **Kusum Ingots (supra)**, **Alchemist Ltd. (supra)**, **Summit Online Trade Solutions (supra)**, **Union of India vs. Sanjiv Chaturvedi & Ors.: (2023) 5 SCC 706**, **Nawal Kishore Sharma vs. Union of India: (2014) 9 SCC 329**, **Dinesh Chandra vs. Chief of Army Staff: (2001) 9 SCC 525**, and **Shanti Devi vs. Union of India: (2020) 10 SCC 766**.

3.3. Reliance is also placed on judgments of Calcutta High Court in **Apratim Mukherjee vs. State Bank of India & Ors.: 2019 SCC OnLine Cal 860**, and **Pankaj Panwar vs. Lalit Kala Akademi: AIR 2015 CAL 67**, judgment of Patna High Court in **Binod Kumar Sharma & Ors. vs. Union of India & Ors.: 2013 (2) PLJR 649**, judgment of Allahabad High Court in **Sheetal**

Tripathi & Ors. vs. Union of India & Ors.: 2020(6) ALJ 501,
and judgments of this Court in **Prem Cables Pvt. Ltd. vs. Assistant Collector: 1981 (8) ELT 440 (Raj.), Mohan Singh vs. Union of India & Anr.: 2006 (1) RLW 124 (Raj), Sarwajeet Singh vs. Union of India: 2015 SCC OnLine Raj 8110 and Pawan Prajapati vs. Union of India: 2023 (3) RLW 2447 (Raj).**

4. Heard and considered.

5. Since the present petition is filed under Article 226 of the Constitution of India, the same is reproduced as under:

"Article 226- Power of High Courts to issue certain writs

(1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without--

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of Article 32."

(emphasis supplied)

6. Article 226(2) makes it quite clear that this Court would have the jurisdiction to entertain the present petition if part cause of action arises within the territorial jurisdiction of this Court, irrespective of location/residence of authority against whom relief is sought. The term 'cause of action' is not defined anywhere and the meaning thereof has evolved through judicial pronouncements. Having considered the judgments cited herein above, the common rationale that emerges is that cause of action is bundle of facts which taken with the law applicable to them gives the petitioner a right to relief against the respondent. However, the entire bundle of facts pleaded need not constitute cause of action, as what is necessary to be established are the material/integral facts alone. In other words, in the context of writ petition, what would constitute cause of action is the material facts which are imperative for the writ petitioner to plead and

prove to obtain relief as claimed. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by this court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering this Court to decide the dispute and that, at least, a part of the cause of action to move this Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject matter of challenge based on which the prayer can be granted. It is, thus, clear that the fact whether or not cause of action, wholly or in part for filing writ petition has arisen within territorial limit of a High Court has to be decided in the light of nature and character of the proceedings under Article 226 of the Constitution of India.

7. With this being the position of law, this Court will first look at the averments made in the writ petition as well as oral submissions made by learned counsel for the petitioner to decide the issue of territorial jurisdiction. The following points are therefore noteworthy:

- a) The advertisement dated 28.07.2020 was issued by Respondents situated at New Delhi for recruitment on posts '*anywhere in India or outside the territory of India*'.
- b) The petitioners are permanent residents of State of Rajasthan and had even provided their permanent addresses as

the address for communication. The petitioners had filled the online form in the State of Rajasthan and downloaded admit card in the State of Rajasthan.

c) The recruitment process was broken into different stages with PET/PST and the computer test being conducted in the State of Rajasthan at dedicated centers fixed by the Respondents themselves. The trade test was conducted in Bihar and the detailed medical examination was conducted in New Delhi. Though different stages of the recruitment were conducted in different States, the principal recruiter was Respondent No.1 throughout. To be eligible for appointment, the applicant had to clear all the stages of the recruitment. Therefore, it is quite obvious that the entire recruitment process was a composite and inter-connected one.

8. Therefore, once it is held that the recruitment process was a composite one and different stages of the recruitment process were interconnected with each other, the fact that PET/PST and computer test were conducted in the State of Rajasthan would constitute integral cause of action, conferring territorial jurisdiction upon this Court to entertain writ petition directed against the primary recruitment authority, i.e. Respondent No.1.

9. To view it from another angle, it would be impractical to direct the petitioners, who are unemployed youths seeking to invoke the equitable extra-ordinary jurisdiction of this Court, to approach a different High Court when the recruitment process was held nationwide, including in the State of Rajasthan, of which the petitioners are permanent residents of. Doing the same would

frustrate the concept of *forum convenience*. It is, therefore, open to this Court to interfere to avoid undue hardship to a party and permit him/her to invoke the equitable extraordinary jurisdiction envisaged by Article 226 of the Constitution of India.

10. In view of the foregoing analysis, it can safely be deduced that all the bundle of facts taken together lead to a conclusion that part cause of action has arisen in the territorial jurisdiction of this Court. The judgments relied upon by learned ASG, though pertaining to issue of territorial jurisdiction and cause of action, are distinguishable as none of those judgments were in the context of nationwide recruitment process.

11. The preliminary objection qua lack of territorial jurisdiction thus stands overruled.

12. List the matters tomorrow, i.e. on 01.02.2024 for consideration on merits.

(SAMEER JAIN),J