

(1992) 04 RAJ CK 0001

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2129 of 1990

All India Students Federation

APPELLANT

Vs

The State of Rajasthan and Another

RESPONDENT

Date of Decision : 16-04-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 2 WLC 737 : (1992) 2 WLN 554

Hon'ble Judges : S.N. Bhargava, J

Bench : Single Bench

Judgement

S.N. Bhargava, J.—According to the petitioner Association, the Director of Local Bodies, Rajasthan, Jaipur, published an advertisement bearing No. 7/84 in the local news-papers in the mid of the year 1984 inviting applications for a number of posts approximately numbering 1,000 from the unemployed persons. The said application was to be enclosed with a postal order of Rs. 8/- in favour of respondent No. 2, Director, Local Bodies. It has been asstated that more than one lac unemployed youth sent their applications alongwith postal order of Rs. 8/-. It was also mentioned in the advertisement that the written test will be held and thereafter, the candidates who will qualify will be called for interview. None of the applicants received any intimation regarding the written test or the interview thereafter and nobody knows what has happed to these applications. Yet, another advertiseme"nt (Anx. 2) on the same lines has been issued in the month of January, 1990 which has been published in Dainik Navjyoti, newspaper, dated 18.1.1990 again inviting application for 1,113 posts by the Rajasthan Local Self Subordinate and Ministerial Service Commission and therein also, it has been mentioned that the application should be accomanied alongwith a postal order of Rs. 10/- with a pasport size photograph. It has further been mentioned that those persons who had applied in pursuance of advertisement No. 7/84 need not submit postal order and that they will be given age relaxation for five years on production of proof that they had applied earlier. The last date for submitting the application was 28.2.1990 but vide news (Anex. 3) appearing in Dainik Navjyoti

dt. 8.2.1990, the said advertisement No. 1/90 was also suspended till further orders and it was stated that no further applications shall be entertained. The petitioner has also enclosed a cutting from the Nav Bharat Times, dated 8.2.1990 with the caption "SARKAR NE LAKHO BEROJGARONKO DHHOKA DIYA". The petitioner has complained that not only the non petitioners but other departments also act in the same fashion and resort to mal-partuces of inviting applications for the appointment on different posts but instad of appointing persons amongst those who apply they give appointments by bak-door methods. The present writ petition had been filed oh 10.5.1990, praying that a criminal case against the guilty persons involved in the fraud in the matter of advertisement concerning employment be registered and that the respondents be directed to pay adequate damages to the unemployed youth who have fallen victims to the deceitful acts and omissions on the part of the officials and that appointments made by back-door method(s) be declared to be ab initio void, illegal, malafide and arbitrary.

2. Notices were issued on 24.5.1990 to the non-petitioners.

3. On 7.12.1990, the Deputy Director, Local Self Department was present in person before the court and he was unable to explain as to why the recruitments have been deferred. He was directed to file a detailed reply before 10.1.1991 specifying upto what period recruitment shall be completed and as to how the department has accounted for the amount received from the candidates who had applied so far and for which the examination had been cancelled. It was also ordered that meanwhile, no temporary appointments shall be given.

4. A reply has been filed on behalf of the respondents on 1.2.1991 to which a rejoinder has also been filed by the petitioner on 11.4.91. On 9.9.91, when the case came up for hearing, the Additional Government Advocate was directed that the Officer Incharge of the case should be present alongwith with the concerned file, on the next date. On 12.9.91, in spite of specific directions dated 9.9.1991, the Officer Incharge was not present and therefore, it was ordered that the Officer Incharge should pay Rs. 500/- to the petitioner. The case again came up for hearing on 19.9.1991 when the Officer Incharge was present. From a perusal of the record, which he had brought, it transpired that much water has flown after the reply was filed on 1.2.1991. Thereafter, opportunity was granted to the State Government to submit additional affidavit within two weeks. An aditional affidavit has been filed on behalf of the Dy. Secretary tothe Governmen-cum-Director, Local Bodies on 4th October, 1991 wherein it has been admitted that advertisement No. 7/84 was published for 2284 vacancies for various municipalities and 83,886 application forms were received. Thereafter, amendment in the Selection Board was made on 27.2.1985. Thereafter, an amendment was issued to the notification, in order to rectify its errors which was opposed by the Rajasthan Municipalities Employees" Federation. However, the matter was finalised on 24.5.1985. Meanwhile, the aforesais Panchayat Local Self Subordinate Service Commission was abolished. Thereafter, Rajasthan Municipal

(Subordinate and Ministerial Service) Rules, 1963 (in short "the Rules of 1963") were amended and a new Commission was established on 9.7.1987 constitution whereof was further amended on 28.1.1989, which was recently again reconstituted on 18.6.1991. Writ Petition No. 1830/1985 and other writ petitions filed by Ratan Singh and others were allowed by a division bench and it was directed to advertise vacancies of different categories of posts in the subordinate and ministerial services and five years' age relaxation was also given to the persons who had applied in response to advertisement No. 7/84f. A review petition No. 126/1989 was filed by the State Government against the said order which was partly allowed on 1.2.1990 and the relief was restricted to only those 22 petitioners and it was directed to provide employment to them subject to their eligibility fulfilment for the applied posts. meanwhile, Advertisement No. 1/90 for 1113 posts was also published on 16.1.1990 and 80,000 applications were received in pursuance thereof. On the legal opinion a new advertisement No. 2/90 was issued in continuation of previous advertisement No. 1/90 and in all, 1,35,000 applications were received in response to these two advertisements and the scrutiny is still going on in respect of these applications; the process of selection against the advertisements would be undertaken as soon as the exercise of scrutiny is completed.

5. An application has also been filed on 18.2.92 on behalf of the Rajasthan Local Self Subordinate and Ministerial Service Commission for impleading it as a party and they have sought permission to file a reply to the writ petition.

6. Arguments have been heard and the record perused.

7. It is a typical instance the government has not acted promptly and has not yet decided as to what has to be done. An advertisement was issued in the year 1984, applications were invited, number of unemployed persons submitted their applications alongwith postal order of Rs. 8/- but no prompt action was taken, no written test was held as was mentioned in the advertisement and no selections were made. During the period, appointments must have been made on ad hoc or temporary basis and the persons who had applied were not given an opportunity to serve or to face selections. As many as 80,886 applications were there. Again, another advertisement was published in January, 1990 for 1113 posts and again, nearly 80,000 applications were received along with postal orders but still, selections were not made. Still another advertisement was issued and another 55,000 applications were received alongwith postal orders and so far, no selections have been made which only shows as to in what casual manner the government acts. It is really unfortunate that the government which describes itself as a Social Welfare State and knows fully well that unemployment is writ large but no efforts are made by the government to fill up the vacancies and to provide employment to the unemployed youth which is also one of the reasons for causing un-rest, in the country. It appears that the Government has thought to collect revenue in this manner by inviting applications which had to be accompanied with postal order for a sum of Rs. 8/- or Rs. 10/- and then not to

hold any selections and utilise that amount as Government revenue. This amount has been collected by the Government from those who are unemployed and are in search of employment. This practice of the Government has to be deprecated in the strongest words possible. The government has tried to give its explanation in its reply but that is not satisfactory. Government has kept mum as to whether any appointments were made for these vacant posts since the year 1984 till date. It appears that appointments must have been given to persons in order to oblige them or for other extraneous considerations which is highly deplorable. But this Court cannot go into these questions while hearing a writ petition under Article 226 of the Constitution of India, but at the same time, this Court cannot shut its eyes. To avoid such things in future, it is very necessary to curb this practice of the government of collecting revenue in this manner.

8. In this view of the matter, it hereby directed that the Government shall refer this matter to the Lokayukta, Rajasthan, Jaipur and he should be requested to examine the matter in detail

9. With these observations, this writ petition is disposed of.