
(2013) 11 RAJ CK 0087
In the Rajasthan High Court
Case No : Civil Writ Petition No. 13394 of 2013

Gopal Singh and Another

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2014) 1 CDR 373 : (2014) 2 RLW 1121 : (2014) 1 SCT 676

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Hanuman Singh Choudhary, for the Appellant; Tarun Joshi for the RPSC., for the Respondent

Final Decision : Dismissed

Judgement

Vineet Kothari, J.—The petitioners, Gopal Singh Rajpurohit S/o. Lal Singh and Sagar Ram Nain S/o. Manohar Ram Nain, have preferred this writ petition as they were not selected in the selection process held for the post of Physical Training Instructor Grade II and III Examination, 2011, conducted by the respondent-RPSC under the Notification (Annex.1) dated 14.12.2011. Without approaching the respondent-RPSC, the petitioners straightway have approached this Court by way of present writ petition with the case that though the cut-off marks for General and OBC categories was 340.55, and the petitioner No. 1- Gopal Singh Rajpurohit, secured only 338.6 marks and the petitioner No. 2- Sagar Ram Nain, secured only 337.33 marks, vide mark sheets produced with the writ petition as Annex.5 (Page 27 and 28 of the paper book), they were entitled to higher marks on account of their participation in the National Level Games/Inter-Zone Level Games, for which separate "28" marks were allocated vide Annex.7, a sheet giving such distribution of such marks.

2. The petitioners claimed that since they participated in the Inter-University Tournament at National or Inter-Zone level, they ought to have been awarded 28 marks as per Column No. 4 of the National Level Games in the said document (Annex.7) with relation to said selection process of P.T.I. Gr. II and III, however,

since the petitioners have been awarded only "16" marks for their participation in the National Level game vide Annex.5, instead of 28 marks, and thus they have been wrongly kept below the cut off marks of 340.55 in the OBC (Male) category and, therefore, appropriate writ deserves to be issued to the respondent RPSC for awarding them higher marks as the petitioners have participated in National Level Game/Inter-Zone Level Games for being considered for such appointment on the post of P.T.I. Grade II and III.

3. Upon a Court question, the learned counsel for the petitioner, Mr. Hanuman Singh Choudhary, fairly submitted that he has not produced the copy of representation, if any filed, raising such a grievance before the respondent-R.P.S.C. Therefore, the question of any decision of the respondent-R.P.S.C. on such representation as to why the petitioners have been awarded only 16 marks in the Game category or not, cannot arise.

4. Much ado was sought to be made by the learned counsel for the petitioners while arguing the case that the respondent-RPSC does not respond to such representations and decide the same and redress the grievances raised before it in several cases and, therefore, it becomes necessary for the petitioners/candidates to knock the doors of the Court invoking extra ordinary jurisdiction in such matters.

5. Mr. Tarun Joshi, learned standing counsel for the respondent-RPSC, who is present in the Court, was asked to explain the procedure with which the respondent-RPSC deals with representations of the candidates in various selection process undertaken by the respondent - RPSC. Mr. Tarun Joshi, vehemently explained that the respondent-RPSC has adequate number of staff and about 7-10 persons deal with RTI applications only received for various queries with regard to various selection processes. He further argued that the respondent-RPSC has various Deputy Secretaries in various wings of the respondent-RPSC like, Examinations, R.T.I. Cell, Secrecy and Grievances cell etc. and with the clerical staff also added in such departments, there is sufficient infrastructure available with the RPSC to deal with the grievances of various candidates and decide such representation and it is wrong to contend that such representation/s are not decided or responded by the RSPC.

6. Learned counsel for the respondent-RPSC also informed the Court that to maintain the transparency of various selection processes, the respondent-RSPC has now started a practice of even inviting the objections of the candidates soon after the examinations are held and such representations about the question papers and answers itself are dealt with appropriately by appointing Committee of Experts to re-evaluate and reassess the strength of the examination/selection process conducted by the respondent-RSPC. He, therefore, sought to submit that it is wrong to put the blame at the door of respondents, that RPSC does not attend to the grievances or representations filed by various candidates in relation to selection/appointments, for which the respondent-RSPC is only a recommendation body, while the State Government Departments are the

appointing authority.

7. While the present case in hand before this Court, is absolutely premature and the petitioners cannot be even heard to say that having made such representation to the respondent-RPSC, and that not having been decided by the RPSC, within reasonable period, they were made to approach this Court by way of present writ petition and, therefore, the submissions made by the learned counsel for the petitioner that the respondent-RPSC does not decide such representations, is simply a flying allegation made without any basis.

8. The flood of litigation, which is brought before this Court invoking extra ordinary jurisdiction by such frivolous and premature writ petitions, wastes a lot of time of the Court even for taking up the case, hearing the counsel for the petitioners and dismiss such petitions. No selection process is allowed to be carried out by the Commission or the concerned Departments without subjecting the same to the judicial scrutiny under Article 226 of the Constitution of India on one pretext or the other. Such casual attitude in filing the writ petitions deserve to be checked, specially when the petitioners have approached this Court without even raising such grievances before the respondent RPSC itself or soon with the filing of representations on the one hand, the writ petitions are also filed on the other hand almost simultaneously and innocuous directions are sought by the petitioners for directing the respondents to decide such representations.

The Court is thus turned into a post office for passing on the grievances of the petitioner to the respondent/s with a direction to decide the same. Before the respondents are allowed to take a stand in the matter while deciding the representations of the petitioners and candidates, the Court is called upon to pass such innocuous directions for deciding representation, which in a large number of cases has not only resulted in uncontrollable multiplicity of litigation, but has invited a flood of litigation at a premature stage with a possibility of conflicting orders by different benches. While the other constitutional and state functionaries in normal course can very well be expected to deal with all or any of such grievances or representations at their own end in appropriate manner, the writ jurisdiction need not be invoked in such cases at least till a stand in the matter is taken in the orders passed in writing by the competent authority of the respondent bodies like RPSC or the State Government Departments for testing the correctness or legality of such orders passed by them.

9. Taking the present case as an illustrative one, to put a check and restraint on such premature and casual writ petitions, this Court is inclined to impose costs on the petitioners so that even for their grievance, which could be attended to or redressed by the respondent-RPSC itself, the petitioners have filed this writ petition without any basis whatsoever. This Court, in writ jurisdiction, is not expected to hold an enquiry into each and every selection process or examination as experts or the recruitment agency itself and it is only for the competent authorities of the respondents, to decide such representations, when filed, with appropriate averments and evidence with such representation/s.

10. This Court taking note of such premature, frivolous and casual writ petitions, is pained, to say the least, that in such circumstances, writ jurisdiction cannot be invoked prematurely and it is for such petitioners and candidates to definitely first approach the respondents authorities of RPSC or other departments of the State Government, or the Central Government, as the case may be, and allow them sufficient and reasonable time to decide such representation, approach personally, if necessary, such authorities, adduce evidence, and then once such appropriate speaking orders are passed by the competent authorities of the respondents/departments, the Court can examine the correctness, legality, genuineness, rationale and reasonableness of such orders, which are passed by the competent authorities. With pain and remorse at heart, while dismissing such writ petition, ill advised as they were when drafted and filed through legally trained counsel; this Court dismisses this writ petition with cost of Rs. 5000/-, to be deposited by these two petitioners with the Legal Aid Committee of this Court within a period of two weeks from today. A copy of this order be sent to the concerned parties forthwith.