

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**Cr.M.P. (M) No. 61 of 2012**

**Decided on: 31<sup>st</sup> January, 2012.**

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Sh. Sudarshan Vashisth, S/o Late Sh. R.L. Vashisth, R/o  
Abhinadan Krishan Niwas, Lower Panthaghatti, Shimla-9 (H.P.).

...Petitioner

Versus

State of Himachal Pradesh.

...Respondent

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*Coram*

***The Hon'ble Mr. Justice R.B. Misra, Judge.***

***Whether approved for reporting?<sup>1</sup>***

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**For the petitioner : Mr. B.S. Ranjan, Advocate.**

**For the Respondent : Mr. Rajinder Dogra, Additional  
Advocate General.**

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**Justice R.B. Misra, J (Oral)**

The case of the State is that one Sh. Saurav Vashisth, S/o Sudershan Vashisth, was selected as Class-III employee in the year 2006 by the Selection Committee, wherein Sh. Sudershan Vashisth as member had also participated in the said selection process. The further case of the State is that when applications of some other applicants either were not entertained or some of the applicants were not found suitable, they became aggrieved. By the selection in question, Sh. Saurav Vashisth has been working to the post of Class-III employee. Now after a lapse of about six years, FIR was filed under Sections 420, 467, 468, 167 and 120-B of the Indian Penal Code for the offences made by the members of Selection Committee including the Chairman. In reference to the said FIR No. 7/12

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<sup>1</sup> ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes.***

for the aforesaid offences, the investigation is going on. All the three officials, namely, Sudarshan Vashisth, Prem Sharma and Molu Ram, working at the relevant time, have since retired and the complaint has been made at the instance of such persons who were not selected to the said post.

2. It has been submitted on behalf of the petitioner that to the utter surprise, the selection process was never challenged, whereas, FIR has been lodged against the petitioner. It has been fairly submitted by learned counsel for the petitioner that if anybody was aggrieved by the selection in question, he could have promptly challenged the selection and the selection process but the conduct of the members of the Selection Committee cannot be questioned at this belated stage, more so, by lodging FIR. It has also been submitted by the learned counsel appearing on behalf of the petitioner that if any official, sitting as member of the Selection Committee, was found to have favoured his own son or ward, in that condition also the matter could have been enquired into and the legality and validity of selection in question could have been tested keeping in view the outcome of selection and if such member had really favoured his relative, if so advised, such official could have been proceeded under the prevailing rules and regulations applicable to a Government official.

3. The police report has also been submitted before me, which has been read by Mr. Rajinder Dogra, learned Additional Advocate General. However, at this stage, this Court is not making any comment on the merits of the case, as the investigation is going on. It is pertinent to note that the selection and selection process has never been challenged and generally the subjective satisfaction of the members and the Selection Committee is not questioned and the Court is generally slow to encourage

complaints more specifically in cases implicating the members of Selection Committee in criminal cases/offences for their due discharge of duty unless it is found that some interpolation or tampering has been made on the part of the member (s) of the Selection Committee.

4. It goes without saying that if selection process and selection is challenged and proved bad or defective then the beneficiary of spoil system or illegal selection may face consequences.

5. In the present facts and circumstances of the case, the petitioner is entitled to be released on bail by furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the Arresting Officer. However, the petitioner shall make himself available for investigation before the Investigating Agency as and when required and the petitioner is also expected to render all possible assistance to the investigating agency. Investigation, however, is allowed to go on. This interim protection shall be made available till finalization of the investigation. In view of the prayer made for and on behalf of the petitioner, liberty is open to the petitioner to challenge even the FIR, in question, by way of legal remedy under Article 226 read with Section 482 Cr. P.C.

6. In view of the above, the petition is disposed of.

Copy ***Dasti***.

***(R.B. Misra),  
Vacation Judge***

***31<sup>st</sup> January, 2012***  
(KRS)