

MC(WP(C)) No. 135 of 2017
(Ref: WP(C) No. 385 of 2017)

BEFORE
HON'BLE MR. JUSTICE KH. NOBIN SINGH

28.6.2017

Heard Shri N. Jotendro, learned counsel appearing for the applicants and Shri B.P. Sahu, learned Senior Counsel appearing for the respondents/petitioners.

On 24/5/2017 when the matter was listed for motion, this Court was pleased to issue notice after having heard the learned counsels appearing for the parties including the learned counsel for the applicants/caveators/private respondents. This Court directed that the Government order dated 6/4/2017 and 12/4/2017 should remain suspended till the next date.

The application being MC(WP(C)) No. 135 of 2017 has been filed on behalf of the private respondents praying for vacating the interim order dated 24/5/2017 passed by this Court on the inter alia grounds that the impugned order dated 6/4/2017 was issued by the State Government on the basis of a policy decision taken by it vide office memorandum dated 1/12/2016. Shri N. Jotendro, learned counsel appearing for the applicants submits that since the said policy decision has not been challenged by the petitioner, the present writ petition is not maintainable. In support of his contention, he has relied upon the order dated 28/10/2016 passed by this Court in writ appeal being WA No. 37 of 2015 wherein this Court has relied upon para 36 of the decision rendered by the Hon'ble Supreme Court in the case of *State of M.P. v. Narmada Bachao Andolan reported in (2011) 7 SCC 639* which is given as under:

"36. The court cannot strike down a policy decision taken by the Government merely because it feels that another decision would have been fairer or more scientific or logical or wiser. The wisdom and advisability of the policies are ordinarily not amenable to judicial review unless the policies are contrary to statutory or constitutional provisions or arbitrary or irrational or an abuse of power. (See Ram Singh Vijay Pal Singh v. State of UP (2007) 6 SCC 44, Villianur Iyarkkai Paduappu Maiyam v. Union of India (2009) 7 SCC 561 and State of Kerala v. Peoples Union for Civil Liberties (2009) 8 SCC 46."

On perusal of the said judgment and order dated 28/10/2016, it is seen that the facts of the said case are not similar to that of the present case for the reason that the policy decision taken by the State Government is not the subject matter in issue in the present writ petition wherein the impugned order has been questioned on the inter alia grounds that the DPC has been held as per the Recruitment Rules 2007, although the said RR had already been superseded by the Recruitment Rules 2014 wherein the post of Assistant Agricultural Officer is shown to be a gazetted post and therefore, if any DPC is to be held as per the provisions of RR 2014, the same ought to be held in consultation with the MPSC but the State Government failed to do so.

In view of the above, this Court is of the view that the application has no merit and is accordingly rejected.

Learned counsel appearing for the private respondents is permitted to make appropriate correction as regards the names of the judges in the order dated 24/5/2017 passed by this Court in WP(C) No. 385 of 2017.

JUDGE

Victoria