

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 3162 of 2021
Reserved on: 24.07.2021
Decided on: 30.07.2021

Dile Ram

.....Petitioner

Versus

State of H.P and others

.....Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon'ble Mr. Justice Satyen Vaidya, Judge.

Whether approved for reporting?¹ Yes.

For the petitioner:

Mr. Jai Dev Thakur, Advocate.

For the respondents:

**Mr. Ashok Sharma, Advocate
General with Mr. R. S. Dogra,
Sr. Addl. A.G, Mr. Shiv Pal
Manhans, Mr. Vinod Thakur,
Addl. A.Gs and Mr. Bhupinder
Thakur, Dy. A.G. for
respondent No.1.**

**Mr. Vikrant Thakur, Advocate
for respondent No.2.**

(Through video conferencing)

Satyen Vaidya, J.

By way of instant petition, the petitioner has assailed the rejection of his candidature for the post of Lecturer (School-new) Commerce on the ground that he had not submitted requisite Economically Weaker Section (EWS) certificate in support of his eligibility.

2. Respondent Public Service Commission issued Advertisement No. 22 of 2019 on 10.12.2019 inviting online

¹Whether the reporters of Local Papers may be allowed to see the judgment? Yes.

applications from the eligible candidates for 215 posts of Lecturer (School-new) Commerce besides posts in other subjects in the Department of Higher Education, Himachal Pradesh. Last date for submission of applications, as per Advertisement, was 30.12.2019 till 11.59 p.m. It was clearly stipulated that candidates must possess documents of their eligibility and should produce such documents on the date of Written Objective Type Examination. It was also made clear that the candidates who fail to submit the requisite documents on the day of Written Objective Type Examination, their candidature will be rejected straightway and no further opportunity would be granted to them for submission of documents.

3. Petitioner, in pursuance to above noted Advertisement, applied for the post of Lecturer (School-new) Commerce under the Economically Weaker Section (EWS) category. As per petitioner, he had submitted the self-attested copies of all requisite documents along-with Economically Weaker Section certificate in support of his eligibility on the date of written examination i.e. 23.02.2020.

4. In reply, respondent No.2 has categorically maintained that the petitioner had neither submitted EWS certificate in support of his eligibility at the time of submitting online application nor on the day of Written Objective Type Examination held on 23.02.2020. Petitioner has not been able to

controvert the factual position placed on record by respondent No.2.

5. It is established from the record that though petitioner had applied under the EWS category, but had not submitted requisite EWS certificate as aforesaid. In view of such undisputed position, no fault can be found with the action of respondent No.2, rejecting the candidature of the petitioner, on this sole ground. It is no more *res-integra* that non-submission of requisite certificates by a candidate in accordance with requirement of Advertisement is sufficient ground to reject his candidature. Reference can be made to the judgment dated 08.10.2020 passed by a Co-ordinate Bench of this Court in CWP No. 4276 of 2020, titled *Monika Koti vs. H.P. Public Service Commission*, wherein identical proposition has been dealt with by placing reliance on the judgments passed by Hon'ble Apex Court in ***Bedanga Talukdar vs. Saifudaullah Khan and others (2011) 12 SCC 85*** and ***Karnataka State Seeds Development Corporation Ltd. and Another vs. H.L. Kaveri and others, 2020(3) SCC 108***.

6. Recently, in writ petition (C) No. 571 of 2021, titled ***Deepak Yadav and others vs. Union Public Service Commission and Another***, the Hon'ble Supreme Court has again reiterated the aforesaid legal position.

7. In view of the above discussion, the petitioner cannot have any claim for consideration under EWS category, however, taking a pragmatic view, we deem it appropriate to observe that non-submission of EWS certificate by petitioner will not take away his right to be considered as a candidate for posts under general category, if otherwise found eligible. We have noticed from the Advertisement dated 10.12.2019 that total 80 number of posts of Lecturer (School-new) Commerce were advertised for general category candidates. Petitioner has appeared in Written Objective Type Examination on 23.02.2020 and in case he finds merit amongst general category candidates, he be considered for selection under the said category with the purpose to meet the ends of justice.

8. The petition is accordingly disposed of with the directions as above. Pending application(s), if any. are also disposed of accordingly.

(Tarlok Singh Chauhan)
Judge

July 30, 2021
(naveen)

(Satyen Vaidya)
Judge