

(2019) 02 CHH CK 0256

Chhattisgarh High Court**Case No:** Writ Petition (S) No. 7371 Of 2018

Bablu Prasad Charmkar And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Feb. 18, 2019**Hon'ble Judges:** P. Sam Koshy, J**Bench:** Single Bench**Advocate:** Jai Prakash Shukla, Rahul Mishra**Final Decision:** Dismissed

Judgement

P. Sam Koshy, J

1. The challenge in the instant Writ Petition is to the advertisement dated 05/07/2018.

2. The relief sought for by the petitioner is that the petitioners were engaged as a Guest Faculty in the previous academic session of the 2017/2018 and

they were also serving the department in the previous years also. However, services have been discontinued and fresh advertisement on 05/07/2018

has been issued. The relief sought for by the petitioners is that the respondents should be restrained from replacing one set of Guest Faculty by

another set of Guest Faculties. The stand of the petitioners is that it is not the case of the respondents that the petitioners in any manner are not

competent or does not have requisite eligibility criteria but it is only the culmination of the contractual period that is coming in the way of the petitioner

and they should be continued for further academic years also till the respondent fill up the post by way of regular recruitment process.

3. During the course of the argument it has been brought to the notice of the Court that the petitioners in fact had participated in the selection process and they were not found meritorious or the petitioners were placed lower in the merit list as compared to the persons selected. The fact that the petitioners have themselves participated in the subsequent recruitment process and after being unsuccessful, this Court is of the opinion, they now cannot be permitted to agitate and challenge the advertisement which in due course of time has been acted upon and the selected persons have been appointed. The claim of the petitioners could have been strong if the petitioners would have approached the Court at the time of the issuance of the advertisement itself.

4. Supreme Court time and again have reiterated the principle that once when a candidate participates in the recruitment process and is unsuccessful, he cannot later on turn around and challenge the recruitment process on the basis of his past experience that he has. This view has been taken by this Court also in a Bunch of writ petitions of similar nature.

5. In 1995 3 SCC 486 in the case of Madan Lal & Ors. v. State of J & K & Ors. in paragraph 9, the Supreme Court has held as under:-

9. XXXXXX Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted.XXXX

6. Likewise again in 2020 12 SCC 576 in the case of Manish Kumar Shahi v. State of Bihar in paragraph 23, the Supreme Court has held as under:-

23. XXXXX Surely, if the Petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The Petitioner invoked jurisdiction of the High Court Under Article 226 of the Constitution of India only after he found that his name does not figure in the

merit list prepared by the Commission. This conduct of the Petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition.

7. Reiterating the same stand in the case of Ramesh Chandra Shah & Ors. v. Anil Joshi & Ors. [2013 11 SCC 209], the Supreme Court in a case

where the petitioners took part in the selection process and not being successful had challenged the method of recruitment itself not accepting the said

to be a strong ground in paragraph 24 has held as under:-

24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full

knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the

methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error

by entertaining the grievance made by the respondents.

8. In view of the same, this Court is of the opinion that no strong case has been made out by the petitioners for grant of relief which has been sought

for. So far as the judgment which has been relied upon by the petitioners is concerned that again is decided on entirely different factual context and

situations in this case also were different within the factual position as it stands in the present case, therefore, the same is distinguishable on facts

itself.

9. The writ petitions accordingly stands dismissed.