

Shri Akul Bhargava & Ors vs Union Public Service Commission & Ors on 12 June, 2020

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 3509/2020 & CM APPLs. 12452/2020, 12453/20

SHRI AKUL BHARGAVA & ORS.

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Through: Mr. P.S. Patwalia, Sr. Advo

Mr. Shiv Mangal Sharma, Mr.

Kartikey Bhatt & Mr.

Rajpal, Advocates.

versus

UNION PUBLIC SERVICE COMMISSION & ORS..... Respo

Through: Mr. Naresh Kaushik & Mr. V

Kaushik, Advocates for R

Mr. Arun Bhardwaj, CGSC

Dr. Manish Singhvi, Sr.

with Mr. D.K. Devesh, Ad

R-3.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 12.06.2020

1. This hearing has been held by video-conferencing.

2. The present writ petition has been filed by 20 petitioners, who are aspirants for appointment to the IAS of Rajasthan Cadre for the year 2018 in the Non-State Civil Services Officers Category. The scrutiny committee had identified four vacancies and had finalized the list of five times the vacancies i.e. 20 officers, who are the Petitioners, as the select list whose interviews were to be conducted. The select list was forwarded by the State of Rajasthan to the UPSC in November, 2019 and the interviews were to be conducted by the UPSC. The interviews were actually scheduled for 31st December, 2019. However, at the last minute, the interviews were cancelled due to non-appointment of the two Central Government nominees to the Interview Committee.

3. Mr. P.S. Patwalia, Id. Senior Counsel submits that as per Regulation 3 of the IAS (Appointment by Promotion) Regulation, 1995 the Interview Committee consists of the following members:

- a) Chairman of the UPSC (where the Chairman is unable to attend any other member of the commission),
- b) Chief Secretary of the State Government,
- c) The Senior-most officer of the Cadre serving in the State, other than the chief Secretary,
- d) Head of General Administration Department/ Personnel/ Revenue Department of the State Government not below the rank of Secretary to the State Government and
- e) Two nominees of Government of India not below the rank of Joint Secretary.

Thus, he submits that the two nominees having not been appointed by the Central Government, the interviews were cancelled and no further progress has even been intimated to the Petitioners. Recently, i.e., in May 2020, the appointment process for the 2019 vacancies for the same category have commenced and this according to Ld. Sr. Counsel would be contrary to law. Hence, the present petition.

4. Ld. counsels for the UPSC, the Central Government and the State of Rajasthan have entered appearance in the matter after receiving advance copies. Mr. Naresh Kaushik, Id. counsel appearing for the UPSC submits that the UPSC could not have conducted the interviews without the two nominees being appointed by the Central Government, and it had no choice but to cancel the interviews as per Regulation 5(c). He further submits that the maintainability of the writ is under question, as the original jurisdiction would be of the Central Administrative Tribunal and in any event, the territorial jurisdiction of this Court is also being challenged, as the appointments are to the Rajasthan cadre.

5. Dr. Manish Singhvi, Id. Sr. counsel appearing for the State of Rajasthan also submits that he challenges the territorial jurisdiction of this Court inasmuch as the entire cause of action has arisen in the State of Rajasthan and the mere location of the UPSC in Delhi would not vest jurisdiction with this Court. He further submits that the process for the 2019 appointments has already been commenced, as is evident from letter dated 29th May, 2020.

6. Mr. Arun Bhardwaj, Id. Standing Counsel appearing for the Central Government submits that his submissions on maintainability and jurisdiction are the same as those of the other Respondents. He submits that he does not have instructions as to why the two officers were not nominated on the Interview Committee and seeks time to take instructions.

7. The Court has heard the submissions of the parties, and has perused the records. The first question that would have to be determined by this Court is as to the maintainability of the writ as

also the territorial jurisdiction. However, in order to ensure that no further delay is caused, Mr. Bhardwaj, Id. Standing Counsel may also seek instructions as to the reason why the two members on the Interview Committee were not nominated by the Central Government, and if so, what is the status of the 2018 appointments. It seems quite incongruous that the process for 2018 appointments having not been concluded, the appointment process for the succeeding year has been commenced.

8. Let all the three Respondents file their short counter affidavits dealing with the issues raised today, including maintainability and jurisdiction, on or before 10th July, 2020.

9. List for hearing on maintainability/jurisdiction, as also the interim application on 16th July, 2020. In the meantime, the process for appointment for the year 2019 may continue, however, before taking any final decision, the UPSC would inform this Court. Parties may forward copies of any judgments which they wish to rely upon two days before the next date.

PRATHIBA M. SINGH, J.

JUNE 12, 2020 Rahul/ R.G