

NARESH KUMAR V/S VIRAT, SECRETARY HSSC, PANCHKULA &ANR.

* * * *

Present : Mr. Rajat Mor, Advocate for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

* * * *

On the previous date the counsel for the respondents had intimated that the name of the petitioner had been recommended for appointment by respondent No.1 for the post of Male Constable (GD) and thereafter it is respondent No.2, who is to give actual appointment to the petitioner. Adjournment was sought and the case was adjourned by specifically ordering that no further adjournment shall be granted, and with a further clarification that in case the order is not complied with; then the concerned respondent, i.e., respondent No.2 shall remain personally present before this court on the next date of hearing. Today again neither there is any appointment letter issued to the petitioner nor is the respondent No.2 present in the court.

The counsel for the respondents-State has submitted that although the respondent No.2 had also issued orders for appointing the petitioner, however, the actual appointment could not be given to him because of prevalent Model Code of Conduct issued by the Election Commission of India due to Lok Sabha Elections.

However, there is no clause in the Model Code of Conduct under which issuance of appointment, even pursuant to the High Court's order might be required to be kept in abeyance. This is an unnecessary excuse taken by respondent No.2.

This court has also come across numbers of cases where the States of Haryana and Punjab, as well as, the Union Territory Chandigarh have been taking a stand that the orders of the High Court could not be complied with in respective cases on account of prevalent Model Code of Conduct. Therefore, it has become necessary to clarify here that no code of conduct issued by Election Commission of India or any order or instructions issued by any other authority, can be permitted to stand in the way of the execution of the order of the High Court. The authorities are fully authorized and are under a legal duty to execute the orders of High Court without any specific permission from or intervention of the Election Commission of India. Therefore, this situation is being clarified by this court that the States of Punjab and Haryana, as well as, Union Territory Chandigarh shall comply with the orders passed by the High Court, irrespective of the enforcement of the Model Code of Conduct on account of Lok Sabha Elections or any other election, unless the orders passed by the High Court are actually and specifically stayed by some appellate court.

Let a copy of this order be sent to the Chief Secretary, Government of Haryana; Chief Secretary, Government of Punjab and Administrator, Union Territory, Chandigarh for their knowledge and necessary compliance, and also for onward communication of this order to all the departments under them.

It is clarified that no further excuse of prevalence of Model Code of Conduct shall be entertained by this court as a ground of non-compliance of the orders passed by the High Court, any more.

Adjourned to 10.05.2024, to be shown in urgent list.

The Registry is directed to dispatch the copy of this order by tomorrow itself. The copy be sent through electronic mode, as well as, by sending special messengers.

24th April, 2024
'raj'

(RAJBIR SEHRAWAT)
JUDGE