

**HIGH COURT OF SIKKIM**

Record of Proceedings

**I.A No.01 of 2018**

**in**

**WP(C) No.26 of 2018**

ZIGMEE DORJEE BHUTIA

... PETITIONER

VERSUS

STATE OF SIKKIM & OTHERS

... RESPONDENTS

Date: 18/03/2019

CORAM :

**HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.**

For Petitioner : M. Pema Ongchu Bhutia, Advocate.

For Respondent No.1 &2 : Mr. Thinlay Dorjee Bhutia and Mr. Thupden Youngda, Government Advocates

Mr. Bhusan Nepal, Legal Retainer

For Respondent No.3 : Ms. Tshering Uden Sherpa, Advocate

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**O R D E R**

This is to consider an application for amendment of the Writ Petition seeking impleadment of 72 other Respondents on the ground that the Respondent Authorities have violated Rules in appointing them to the post of Headmaster, Secondary School. According to the Petitioner the eligibility criteria to the post of Headmasters, Secondary School is 50% by promotion of Headmasters of Junior High School and 50% from the category of Post Graduate teacher and Graduate teacher. The Writ Petition filed by the Petitioner which is sought to be amended is limited to the reassessment of the answer papers of the candidates appearing

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for promotional examination held on 29.07.2017 to the post of the Headmasters, Senior Secondary School as pleaded in paragraph 2 of the Writ Petition. The application for impleadment seeks to, however, implead 72 Respondents on the ground that the Respondent Authorities have violated Rules in appointing them as Headmaster /Headmistress, Junior High School. The learned Counsel appearing for the Petitioner admits that the post of Headmaster, Senior Secondary School and the Post of Headmaster/Headmistress, Junior High School, are two separate posts. The learned Counsels appearing for the State Respondents submit that the Office Order No.567/Adm./HRDD dated 15.06.2017 relate to the appointment of Headmasters / Headmistress, Junior High School and the process of appointment was completely different than the one in issue in the present Writ Petition. The Petitioner has also sought amendment of the prayers to the Writ Petition by including two further prayers. Prayer (c) sought to be included in the Writ Petition is a prayer seeking cancellation of the appointment of 72 Respondents. In view of the submissions made, it is evident that the said prayer and the amendment sought to the Writ Petition to include the 72 other Respondents would be changing the nature and character of the Writ Petition, which is not permissible. The proposed Respondents are neither necessary nor proper parties.

The application also seeks quashing of the circular dated 23.11.2018 as being violation of the Constitutional right of the Petitioner. This prayer is sought for on the ground that during the pendency of the present proceeding the Respondent No.2 had issued a circular upon the Petitioner prohibiting the Petitioner to

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proceed with the present proceeding. The circular is annexed to the impleadment application and it states *“it has come to the notice of the authorities that the Heads of the Schools HRDD have been appearing in Court without prior permission and have also been producing evidence affecting the decisions of the departments. It is therefore notified that prior departmental permission shall be mandatory to before appear any Court for any reason failing which serious Disciplinary action shall be initiated against the errant without any further notice.”*

A perusal of the said circular does not give any impression that the circular has prohibited the Petitioner to proceed with the present proceeding.

In view of the aforesaid the application is without any merit. The application is dismissed.

**Judge**  
18-03-2019

Index : ~~Yes~~ / No  
avi/ Internet : Yes / ~~No~~