

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 19463 of 2015

Reserved On : September 14, 2015

Pronounced On : 17.09.2015

Vijay Kumar

.... Petitioner

vs.

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Sunil K. Nehra, Advocate
for the petitioner.

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DEEPAK SIBAL, J. :

Shorn of unnecessary details, the facts in brevity, as borne out from the record, as also after hearing counsel for the petitioner, are that selection of JBT teachers was challenged before this Court through a bunch of petitions, the leading case in which was **C. W. P. No. 3 of 2011** titled **Parveen Kumari and others vs. State of Haryana and others**. One of the main issues of challenge raised in that case was that one of the eligibility conditions for selection as a JBT teacher was that a candidate should have

passed School Teacher Eligibility Test (STET), conducted by the Board of School Education, Haryana, in which, large scale impersonation was alleged. Through an interim order, this Court directed the thumb impressions on the application forms and the OMR sheets of the STET to be compared with the sample thumb impressions of the candidates by the Forensic Science Laboratory (FSL), Madhuban, Karnal. As per the orders passed by this Court, the examination was done and a report was submitted. After hearing counsel for the parties and going through the record of the case, especially the report given by the FSL, case of **Parveen Kumari** (*supra*) was disposed of vide order dated 03.08.2015, directing the State to take disciplinary action, as also to initiate criminal proceedings.

In compliance with the orders passed by this Court in **Parveen Kumari's** case (*supra*), the petitioner, who was serving as a JBT teacher, was served with a charge-sheet, alleging therein impersonation and fraud on his part. He has been granted 15 days' time to submit his response to the charges levelled against him, but without responding to the same, he has rushed to this Court on the ground that the Roll No. referred to in the charge-sheet is not his.

Once a charge-sheet has been served upon the petitioner, which gives him adequate time to respond to the same, he should have first availed of that opportunity before rushing to this Court. Even otherwise, the charge levelled against the petitioner not only refers to his Roll No.,

which he claims is not his, but is also based on allegations of fraud and impersonation on his part by referring to the report of the FSL where these allegations have been made against the petitioner by name. The charges levelled against the petitioner are reproduced below :-

“OPINION-4060
[Roll No. 1131509]

“Inter se examination of signatures in the red enclosed parts marked Q4060/1, R4060, R4060/1 and S4060, S4060/1 reveals that specimen signatures in the red enclosed parts marked S4060, S4060/1 show modifications in the execution of some character/(s) vis-a-vis R4060, R4060/1 which are attributed to the passage of time. However, all these signatures are freely written, show natural variations in the execution of character/(s) among them and do not show any evidence of imitation in their line quality. Signatures marked Q4060/1, R4060, R4060/1 and S4060, S4060/1 also show similarities in the general as well as individual writing characteristics among them- which leads to the opinion that the signatures in the red enclosed parts marked Q4060/1, R4060, R4060/1 and S4060, S4060/1 all have been written by one and the same person.

[A] The existing signature of Vijay Kumar
(has been written on that portion of

paper surface where already correcting fluid applied) in the red enclosed part marked Q4060 is not the original signature and when examined in transmitted light under Stereo Zoom Microscope the underneath (original) deciphered.”

That on the basis of the report of the State Crime Record Bureau, Madhuban, Karnal, it is made out that you have committed the act of impersonation in the examination of STET/HTET which is a criminal offence and you obtained the certificate of STET/HTET in a fraudulent manner. Therefore, the certificate held by you for qualifying STET/HTET examination becomes invalid. The certificate of passing of STET examination is one of the essential qualification/condition for eligibility for the post of JBT Teacher. As the process of selection and your appointment to the post of JBT Teacher becomes invalid and vitiated, and you became ineligible for selection/appointment to the post of JBT

Teacher. By obtaining STET/HTET certificate in a fraudulent manner, you have usurped the post of JBT Teacher. [Emphasis supplied]”

A perusal of the above charges clearly show that under Charge-A, the petitioner by name has been charged for impersonation and committing fraud.

The charge-sheet also refers to the service ID of the petitioner, which he does not dispute.

In view of the above, it would not be appropriate for me to interfere at this stage, especially when adequate opportunity has been granted to the petitioner to respond to the charges levelled against him.

The other prayer made by the petitioner is to restrain the respondents from initiating criminal proceedings against him. It is not disputed that as on date, no criminal proceedings have been initiated against the petitioner. The petition, thus, on this count as well, is premature. Even if a criminal proceeding is lodged against the petitioner, he has adequate remedies under the Code of Criminal Procedure, 1973, which he is at liberty to avail of, if so advised. It is the prerogative of the State to initiate criminal proceedings against the persons, who, according to them, have indulged in impersonation and fraud, especially when such action is being taken under order of this Court, referred to above.

Initiation and then pendency of criminal proceedings against an

individual has serious consequences, not only on him and his future, but also on his family. It is, therefore, expected and for which, I have no doubt in my mind that the State of Haryana, before initiating criminal proceedings against each of the individuals, would consider each case with the seriousness that it deserves. As an abundant caution, a direction is issued to the State of Haryana that before lodging of FIRs, each case will be considered and dealt with separately and only if, after due application of mind, a case for criminal prosecution is made out, the same would be initiated.

In view of the facts and circumstances noticed above, the present petition, qua both the prayers pressed before me, is premature, and therefore, at this stage, I am not inclined to entertain the present petition in exercise of jurisdiction under Article 226 of the Constitution of India, and therefore, order dismissal of the same.

No costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 17.09.2015

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