

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CWP No.20026 of 2015

Date of Decision:19/09/2015

Ashok Kumar and another

...Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

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

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J. (Oral)

Shorn of unnecessary details, the facts in brevity, as borne out from the record, as also after hearing counsel for the petitioners, are that selection of JBT teachers was challenged before this Court through a bunch of petitions, the leading case in which was **CWP No.3 of 2011** titled **Parveen Kumari and others v. 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 3.8.2015, 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 petitioners, who were serving as a JBT teacher, were served with a charge-sheet, alleging therein impersonation and fraud on their part. They were granted 15 days' time to respond to the charges levelled against them but without responding to the same, they have rushed to this Court through the present writ petition. The charges levelled against the petitioners which are serious read as under:

“Ashok Kumar

“OPINION-4227”:

(Roll No.1170250) Inter-se examination of signatures in the red enclosed parts marked R-4227, R-4227/1 and S-4227, S-4227/1 reveals that these signatures are reasonable inter-se consistent among them.

It has not been possible to connect the authorship of signatures in the red enclosed parts marked Q4227, Q4227/1 in comparison with signatures marked R4227, R4227/1 and S4227, S4227/1.

Note: Correcting fluid have been applied against Sr. No.58 on OMR Sheet Part-I and against Sr. No.57 on OMR Sheet Part-2 in Darken only one option for answering each question respectively.”

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.

On such violations of rules Sh. Ashok Kumar JBT, (ID No.P1010746) Government Primary School, Brahman Majra Block Israna (Panipat) has made himself liable/responsible for strict disciplinary action under Rule-7 Harayna Civil Services (Punishment & Appeal) Rules-1987.

Rajvir

“OPINION-4231:

(Roll No.1182257) Inter-se examination of signatures in the red enclosed parts marked Q-4231, Q-4231/1, R-4231, R-4231/1 and S4231, S-4231/1 reveals that these signatures are reasonable inter-se consistent among them.

The possibility that the signatures marked Q-4231, Q-4231/1, R-4231, R-4231/1 as well as S-4231, S-4231/1 have been written by more than one person cannot be ruled out.

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.

On such violations of rules Sh. Rajvir JBT, (ID No.P1010787) Government Primary School, Israna Block Israna (Panipat) has made himself liable/responsible for strict disciplinary action under Rule 7 Harayna Civil Services (Punishment & Appeal) Rules-1987.”

Once charge-sheets have been served upon the petitioners, which give them adequate opportunity and time to respond to the same, they should have first availed of that opportunity before rushing to this Court.

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 petitioners to respond to the charges levelled against them.

The other prayer made by the petitioners is to restrain the respondents from initiating criminal proceedings against them. It is not disputed that as on date, no criminal proceedings have been initiated against the petitioners. The petition, thus, on this count as well, is premature. Even if a criminal proceeding is lodged against the petitioners, they have adequate remedies under the Code of Criminal Procedure, 1973, which they are 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 orders of this Court in **Parveen Kumari's** case (supra).

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**

19.09.2015
rajeev