

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CWP No.20205 of 2015

Date of Decision:22/09/2015

Preeti

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vishal Nehra, Advocate for the petitioner.

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 petitioner, 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 petitioner, who was serving as a JBT teacher, was served with a charge-sheet, alleging therein impersonation and fraud on her part. The charges levelled against the petitioner are reproduced below:

“Preeti

“OPINION-4234”:

(Roll No.1191029) There mark of correction in character 'e' in R4234. Inter-se examination of signatures in the red enclose parts marked R4234 (remaining part of signature) R4234/1 and S4234, S4234/1 reveals that specimen signatures in the red enclosed parts marked S4234, S4234/1 show modifications in the execution of some character (s) vis-a-vis R4234, R4234/1 which are attributed to the passage of time and show reasonable inter-se consistency among them. In addition to this, differences are observed between R4234, R4234/1, S4234, S4234/1 and Q4234, Q4234/1 in the general characteristics as well as in the individual writing characteristics i.e. detailed execution of various character (s), such as : Formation of character “P” in two operations with location of commencement and shape of the body part of character “P” location, nature as well as nature of the body part of character 'r' nature of the body eyelet of character 'e' together with shape of its body part, location of commencement and nature of the body staff of character 't', nature of the body staff of character 'i', nature of connecting strokes among them which are fundamental in nature and are beyond the range of natural variations and intended disguise-which leads to the opinion that the person who wrote red enclosed signatures in the red enclosed parts marked R4234, R4234/1, S4234, S4234/1 did not write the signatures in the red enclosed parts marked Q4234, Q4234/1.

Note: There are marks of erasure against Sr. No.1 on OMR Sheet Part-1 and against Sr. Nos.20, 51 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 Smt. Preeti JBT (ID No.) Government Primary School, Dahar Block Israna (Panipat) has made himself liable/responsible for strict disciplinary action under Rule-7 Harayna Civil Services (Punishment & Appeal) Rules-1987.

To the above charges, the petitioner has submitted a reply but without awaiting for the outcome of the same has rushed to this Court through the present writ petition.

Once charge-sheets have been served upon the petitioner to which she has submitted her reply, she should have not rushed to this Court without awaiting for the final out-come thereupon. Thus, the present petition is clearly premature.

The other prayer made by the petitioner is to restrain the respondents from initiating criminal proceedings against her. 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, she has adequate remedies under the Code of Criminal Procedure, 1973, which she 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

22.09.2015
rajeev