

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C. W. P. No.20362 of 2015

Date of decision:12.10.2015

Devender Kumar and others

... Petitioners

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. Vivek Khatri, Advocate for the petitioners.

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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 learned 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 **C. W. P. No. 3 of 2011** titled **Parveen Kumari and others vs. State of Haryana and others**. One of the main issue 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*) and on the basis of the report given by the FSL, the petitioners, who were serving as JBT teachers, were served with the charge-sheets, alleging therein impersonation and fraud on their part.

In response to the same, the petitioners have filed their replies but without awaiting for the outcome of the same, they have rushed to this Court through the present petition.

Once the charge-sheets have been served upon the petitioners to which they have submitted their replies, they should not have rushed to this Court without awaiting for the final outcome thereupon. No decision yet has been taken by the respondents on the reply submitted by the petitioners to the charge-sheets served upon them whether to initiate inquiry against the petitioners or not. Thus, the present petition is clearly premature.

Several petitions of the nature like the present one are being filed in this Court. The apprehension shown by the petitioners is that since they have been charge-sheeted in purported compliance of order passed by this Court, regular departmental enquiry would be ordered and held against them.

The apprehension on the part of the petitioners are misconceived. This Court has merely directed the respondent-department to take action against the defaulters in accordance with law and that is exactly what I expect the respondent-department to do but in the peculiar facts of the case, I direct the respondents to consider the reply to the charge-sheet

filed by the petitioners on each issue of fact and law raised and decide the same by passing a speaking order thereupon. This would be as per the principles of natural justice and the basic requirement of law which requires all responses to any show cause notice or charge-sheet to be disposed of by passing a well reasoned speaking order. If an additional issue is sought to be raised by the petitioners, liberty is granted to raise the same within one week from the date of receipt of a certified copy of the order provided that the respondent-department has already not taken a final decision on the responses to the charge-sheet by them.

The other prayer made by the petitioners are to restrain the respondents from initiating criminal proceedings against them. Learned counsel for the petitioners states that FIR has already been lodged against respondent No.3 rendering the petition infructuous qua him with regard to this issue. So far as the other petitioners are concerned, it is not disputed that as on date, no criminal proceedings have been initiated against them. 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 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 aforesaid facts and circumstances, the present petition is premature and therefore, at this stage, I am not inclined to entertain the same in exercise of jurisdiction under Article 226 of the Constitution of India and therefore, order dismissal of the same.

No costs.

**(DEEPAK SIBAL)
JUDGE**

**12.10.2015
rajeev**