

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

**LPA No. 1064 of 2015 (O&M)
Date of Decision: 16.10.2015**

State of Punjab and another

.....Appellants

Vs.

Kulwinder Kaur and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. P.P.S. Thethi, Addl. A.G., Punjab.

Mr. Sukhdev Kamboj, Advocate,
for the respondents.

S.S. Saron.J.

CM No. 2213-LPA-2015

Heard.

For the reasons, mentioned in the civil miscellaneous application, delay of 269 days in filing the Letters patent appeal is condoned.

CM stands disposed of, accordingly.

LPA No. 1064 of 2015 (O&M)

Learned counsel for the State has filed affidavit of Smt. Inderbir Kaur, Deputy Director, State Council of Educational Research and Training, ('SCERT'-for short), Punjab. The same is taken on record.

This appeal has been filed by the appellants-State of Punjab and Director SCERT, Punjab against the order dated 05.09.2014, passed by the learned Single Judge, whereby the petition filed by respondents has been allowed.

The Right of Children to Free and Compulsory Education Act, 2009 ('Act'-for short) has been enacted. Section 23 of the Act provides for qualifications for appointment and terms and conditions of service of teachers. Sub Section (1) of Section 23 envisages that any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher. The National Council for Teachers Education (NCTE), which is an academic authority has vide notification dated 23.08.2010 laid down minimum qualifications for a candidate to be eligible for appointment as a teacher for Classes I to VIII. One of the pre-requisite conditions for a person to be eligible for appointment as a teacher is that he/she should pass the Teachers Eligibility Test (TET) to be conducted by the State governments in accordance with the guidelines framed by NCTE. The guidelines for Punjab State Teachers Eligibility Test (PSTET) based on the NCTE guidelines were issued by the Department of School Education, Government of Punjab. The responsibility for conducting the test was entrusted to the SCERT, which assigned the work for completing the formalities to a private agency. As per the guidelines two papers of PSTET were provided. Paper I was for the applicants who intended to seek eligibility for

consideration for appointment as Classes I to V teachers and paper II for Class VI to VIII. In case a candidate intended to be a teacher for both the levels, he/she was required to appear in both the papers. The qualifying marks for being eligible for appointment as a teacher was 60% or more in the PSTET examinations. The respondents No. 1, 4 and 6 namely Kulwinder Kaur, Taranjit Kaur and Neha appeared in Paper I of the PSTET for being eligible for consideration for appointment as teachers for Classes I to V; while respondents No. 2 and 5 namely Malkiat Kaur and Ramandeep Kaur appeared in paper II of the PSTET for being eligible for consideration for appointment as teachers for Classes VI to VIII. The respondents were declared 'failed' in their respective Paper I and Paper II of the PSTET, which were the eligibility tests for consideration for appointment as teachers for Classes I to V and Classes VI to VIII respectively. The respondents having been declared 'failed' in their respective Paper I and Paper II of PSTET, filed a petition seeking quashing of the result declared by the appellants. It was contended that the wrong answers were given in the options of Paper I and Paper-II of PSTET held on 03.07.2011 for being eligible for consideration for appointment for Classes I to VIII teachers.

The learned Single Judge in his impugned order dated 05.09.2014, *inter alia*, observed that after two years of pendency of the writ petition, the State's response had been abysmally pathetic. All that the State had contended in reply was that the agency that conducted the test had given key answers and the Court would not

interfere with the same. It was observed that the Court would not support an expert's view as regards the correct answers or that the questions were not vague. However, there must be an attempt on behalf of the State to respond to a plea that the key answers were wrong and that if any of the questions were vague, an objective appraisal of the grievance was liable to be made by entrusting the task of appraisal to some expert body and elicit its response. It was further observed that in the present case after the petitioners' (now respondents) challenge, the State had done nothing except to state that the agency which was entrusted with the task of running the examination and their response that these answers were correct must be accepted.

In the circumstances, the learned Single Judge under the extraordinary circumstance of the State inertia, substituted his own resources to what would be the possible answers in respect of four key answers to questions regarding which the dispute had been raised by the respondents. The learned Single Judge allowed the writ petition of the respondents and held that they shall have the benefit of favourable consideration and the appellants shall reappraise the respondents in the light of the observations made in the impugned order and declare them as passed.

The State and the Director SCERT have filed the appeal and during pendency of the appeal, it has submitted that the State constituted a Committee comprising of four members namely:-

1. Mrs Baljeet Kaur, Subject Expert SCERT;

2. Dr. Dilsher Kaur DIET, Nabha (Patiala);
3. Dr. Raminderjeet Kaur DIET, Gurdaspur;
4. Dr. Buta Singh Sekhon DIET, Ahmedpur (Mansa).

The Committee had considered the four questions in respect of which the dispute was raised and has come to the conclusion that the answers which have been given by the learned Single Judge in its impugned order from his own resources would be somewhat similar and in any case rendering the answers key as incorrect. The benefit of four marks has been given to the respondents.

In the circumstance, it is submitted that nothing survives in the Letters patent appeal and the same has been rendered infructuous.

Accordingly, the appeal is dismissed as infructuous.

(S.S. SARON)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

October 16, 2015
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