

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

LPA No.1377 of 2015(O&M)

Date of decision:12.10.2015

Monika and others

....Appellants

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Kapil Kakkar, Advocate for the appellants.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 11.08.2005 whereby the writ petition filed by the petitioners for quashing of the order dated 19.10.2012 and for issuance of a writ of mandamus directing the respondents to grant a chance to appear in the counselling leading to the appointment was dismissed.

It was on 23.09.2009, an advertisement was published for recruitment of 7654 posts in the teaching and non-teaching grade on contract basis by the Department of Education, Government of Punjab. The appellants were one of the applicants for the said posts. A public notice was subsequently issued in April, 2010 calling upon the candidates for counselling for the posts of Art/Craft Teachers, Vocational Master/Mistress and for non-teaching posts, which was held from 26.04.2010 to 11.05.2010. The appellants did not appear in such

counselling process. Thereafter, in July 2010 another notice was issued calling candidates for the posts in Teaching cadre, the counselling of which was to be held from 14.07.2010 to 16.07.2010.

The assertion of the appellants is that the appellants could not attend counselling on the given dates as most of the appellants belong to deep rural areas. The relevant extract from the writ petition reads as under:-

“9. That it is submitted that despite due diligence, care and caution, the petitioners could not attend counseling on the given dates as most of the petitioners belong to deep rural areas, therefore, they could not notice the date of their counseling because of the lack of internet service and timely access to the news papers and thus their not attending the counseling was not intentional, deliberate or willful but because of the bonafide reasons mentioned above.”

The appellants earlier invoked the writ jurisdiction of this Court when a writ petition bearing CWP No.6398 of 2012 titled Monika and others v. State of Punjab and others, was filed. The said writ petition was disposed of on 19.07.2012 with a direction to the respondents to pass a speaking order on the writ petition submitted by the appellants. It is thereafter, the impugned order (Annexure P-7) was passed on 19.10.2012 pointing out that the public notices were issued and that in pursuance of public notices issued, the appointment letters to all candidates have been issued after counselling of the candidates who attended the same and that there is no requirement to inform the candidates through Postal Department.

Learned Single Bench dismissed the writ petition relying upon a Division Bench order in LPA No.1781 of 2014 titled Loveleen Kaur v. State of Punjab and others, decided on 03.11.2014 (wrongly mentioned as CWP No.24837 of 2012 in the order). It was held that once a candidate has failed to appear on a specific date, no grievance can be entertained so as to direct the respondents to hold another counselling.

Before this Court learned counsel for the appellants has vehemently argued that there are vacant posts and that appellants are not seeking setting aside of appointment of any of the candidates appointed in pursuance of the public notices issued earlier. Therefore, a direction can be issued to appoint the appellants.

We have heard learned counsel for the appellants and find no merit in the present appeal. The assertion in the writ petition is that the appellants belong to deep rural areas, therefore did not come to know about the dates of counselling, is factually incorrect. All the appellants except appellant No.1 are residents of urban areas i.e. Amritsar, Kapurthala, Ferozepur, Jalandhar, Pathankot etc. Therefore, the assertion that the appellants could not appear for counselling seems to be a made up ground. Once, the appellants have submitted applications for the posts in pursuance of a public notice issued, therefore, the subsequent public notices informing the date of counselling cannot be permitted to be disputed. The appellants have chosen not to appear in the counselling conducted twice over. Once the appellants have failed to appear for counselling and a junior in merit has been appointed, it is the voluntary act of the appellants

leading to an inference that the appellants were not ready and willing to offer themselves for appointment.

In view thereof, we do not find any merit in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

OCTOBER 12, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE