

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

***CWP No.18443 of 2016 (O&M)***

***Date of decision : 06.09.2016***

*Suresh Raheja W/o Sh. Mukesh Kumar*

*....Petitioner*

*Vs.*

*State of Haryana and others*

*....Respondents*

***CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.***

Present: Mr. Dilbagh Singh, Advocate for the petitioner.

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***TEJINDER SINGH DHINDSA, J.***

Petitioner who was serving as Guest Faculty Teacher (Hindi) has filed the instant petition impugning the order dated 07.01.2015 at Annexure P-9 passed by the Director, Secondary Education, Haryana whereby her services have been terminated. Writ of mandamus is sought for directing the respondent/Authorities to permit her to join on the post in question.

Pleadings on record would indicate that the petitioner had joined as Hindi Teacher (Guest Faculty) on 21.07.2007. Services of the petitioner had been terminated earlier in point of time vide order dated 07.09.2012 along with certain others. At that point of time, petitioner filed CWP No.18331 of 2012 and under the protection of interim orders had been permitted to continue.

The impugned order in the instant petition dated 07.01.2015 at Annexure P-9 is qua 193 Guest Faculty Teachers including the petitioner. Apparently, certain other Guest Teachers agitated the issue by filing writ petitions in this Court immediately after passing of the order including CWP No.2968 of 2015 (Seema Devi Versus State of Haryana and others). In such

writ petition as also connected petitions, an order was passed by a co-ordinate Bench of this Court on 08.04.2015 and which was to the following effect:

*“As an interim measure, operation of the order dated 07.01.2015 in CWP No.5400 of 2015 and 09.02.2015 in CWP Nos.2867, 2968, 4196, 5224, 4677, 5415 of 2015 shall remain stayed till the next date of hearing.”*

Subsequently, the State Government took the plea in some of these connected petitions that teachers in three disciplines i.e. Hindi, SST and Maths have been declared usurpers and which has resulted in CWP No.12689 of 2015 titled as Sunil Kumar and others Versus State of Haryana and others to be dismissed by this Court vide order dated 06.07.2015.

The petitioner herein is stated to be similarly situated as petitioners in ***Sunil Kumar and others's case (supra)***. LPA No.1391 of 2015 having been filed against the order dated 06.07.2015 passed by the learned Single Judge was also dismissed by the Letters Patent Bench. The matter having been carried to the Supreme Court on 11.07.2016, the following order was passed:

*“Application seeking exemption from filing official translation is allowed.*

*Application seeking permission to file synopsis and list of dates as well as permission to place additional documents on record is granted and the same are taken on record.*

*Issue notice returnable in four weeks.*

*Dasti service, in addition, is permitted.*

*Until further orders, there shall stay of the operation and implementation of the impugned judgment.”*

Counsel appearing for the petitioner has raised the solitary submission that petitioner is similarly situated to the Guest Teachers that

had filed CWP No.12689 of 2015 and since after passing an order dated 11.07.2016 by the Hon'ble Supreme Court of India, the other Guest Teachers had been permitted to join back, accordingly, directions be issued to the respondent/Department to permit even the petitioner to join back as Guest Teacher (Hindi).

Having heard learned counsel for the petitioner at length, this Court is of the considered view that no relief can be granted to the petitioner.

As has been noticed herein, the interim relief that had been granted by a co-ordinate Bench of this Court on 08.04.2015 in CWP No.2968 of 2015 and other connected petitions was confined only as regards the petitioners therein.

As regards CWP No.12689 of 2015 titled as Sunil Kumar and others Versus State of Haryana and others, the Guest Teachers stated to be similarly situated had approached this Court against the same very termination order but their writ petitions stand dismissed. Even the Letters Patent Appeal has been declined.

The petitioner is wanting to gain impetus only on account of the Hon'ble Supreme Court having passed an order dated 11.07.2016 whereby operation and implementation of the impugned judgment passed in LPA No.1391 of 2015 arising out of CWP No.12689 of 2015 (Sunil Kumar and others Versus State of Haryana and others) has been stayed. The same cannot be extended in favour of the petitioner. Suffice it to observe that impugned order was passed in January, 2015 and the petitioner was relieved immediately thereafter. Other Guest Teachers who are stated to be similarly situated had approached this Court and had agitated the matter by filing the

writ petition soon thereafter. The petitioner herein chose to be a fence sitter. After having watched proceedings whereby the writ petition has been dismissed, the Letters Patent Appeal has also been dismissed and thereafter the Supreme Court having intervened, petitioner has chosen to join the fray. Petitioner cannot be granted such liberty and luxury. It is a belated claim sought to be set up. In taking such view, I would draw support from the observations of the Hon'ble Supreme Court in ***M/s. Rup Diamonds and others Versus Union of India and others, (1989) 2 SCC 356*** and which are to the following effect:

*“Petitioners were vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. Their case cannot be considered on the analogy of one where a law had been declared unconstitutional and void by a Court, so as to enable persons to recover monies paid under the compulsion of law later so declared void.”*

No intervention in the matter is called for.

Petition is dismissed.

**06.09.2016**

*shubham*

**(TEJINDER SINGH DHINDSA)  
JUDGE**

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| i)  | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable?        | No  |