

CWP No.22918 of 2013
CWP No.2725 of 2014

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.22918 of 2013

Kuldeep Singh ... Petitioner

Versus

State of Haryana and others ... Respondents

2. CWP No.2725 of 2014

Shilu Kumari ... Petitioner

Versus

State of Haryana and others ... Respondents

Date of Decision: 27.09.2016

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Anurag Goyal, Advocate,
for the petitioner in CWP No.22918 of 2013.

Mr. Gaurav Gaur, Advocate,
for Mr. Ashwani Talwar, Advocate,
for the petitioner in CWP No.2725 of 2014.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. A.S. Virk, Advocate,
for respondent No.3.

Mr. Hemant Bassi, Advocate,
for respondent No.4.

Mr. Raj Kapoor Malik, Advocate,
for respondent No.5.

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of CWP No.22918 of 2013 titled *Kuldeep Singh v. State of Haryana and others* & CWP No.2725 of 2014 titled *Shilu Kumari v. State of Haryana and others*.

2. The case is that fraud is alleged to have been committed in the Guru Jambheshwar University, the nodal agency assigned to hold the State Level Eligibility Test (in short 'SLET') wherein the petitioner accuses the 5th respondent to have deceitfully used the forged certificate of one Payal Rani to be declared qualified and obtain offer of appointment to the post of Assistant Professor in the College/respondents 4th & 6th affiliated to the University. To establish this assertion photocopies of the certificate of 5th respondent and Payal Rani have been placed at pages 212 and 213 of the paper-book. The cause of suspicion is a rubber stamp bearing the same Certificate No., i.e. "4080080" and date of issue on both written 04.07.2005. The certificates have been issued under the seal of the Guru Jambheshwar University, Hisar to the candidates.

3. Still further, the petitioner admittedly has participated in the selection process and remained unsuccessful for appointment to the single post of Assistant Professor advertised. The name of the petitioner was placed in the waiting list. Failure to make it to the select list has brought this petition challenging the appointment of the 5th respondent.

4. It is well settled that mere suspicion cannot take the place of proof and I have no reason to continue with these proceedings for embarking upon a fishing and roving enquiry into the correctness of the

certificates or whether there has been impersonation.

5. The Court is informed that the 5th respondent has not been offered appointment because of an interim order passed in this case. No further directions I think are required to be given because Mr. Bassi appearing for the respondent privately managed aided college states that on the complaint received against the 5th respondent regarding SLET the college have issued a notice to the 5th respondent to satisfy the college regarding the authenticity of the certificate of passing the SLET. Accordingly, the 4th and 6th respondents will be at liberty to take such decisions on the appointment as they deem fit and proper.

6. Strangely, the Guru Jambheshwar University has not been made a party to this petition presented in the year 2013 and, therefore, nothing really can be said in their absence with any amount of certainty and authority. The University appears to this Court to have been a necessary party and no decision can be rendered in the case when heard in their absence. For want of impleadment of necessary party, the petition is misdirected and not maintainable in the present form and is accordingly liable to be dismissed. Moreover, seriously disputed questions of fact are involved in this case which ought not to be entertained or decided in writ jurisdiction for which alone the civil court is designed to return proper findings on evidence adduced by the parties after full opportunity is made available to examine and cross-examine witnesses and for production of documents. And for this reason also the petition is liable to be dismissed on ground of availability of an alternative remedy, which if advised, is always

open to be pursued in search of a declaratory decree against the 5th respondent contesting the present petition.

7. For the several reasons recorded above, the petition brought under Article 226 of the Constitution is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

27.09.2016
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Whether speaking/reasoned	Yes
Whether reportable	No