

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19765 of 2016
Date of decision: 21.9.2016

Satbir

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Jasbir Mor, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. Contends that as per criteria adopted in the Teacher Transfer Policy-2016 in Clause 6 thereof, the petitioner has a right of consideration for transfer to his place of preference according to his merit points which is 35 points in terms of the formula adopted in the policy. Persons with lower merit points have been given their choice postings according to their preferences submitted online and this is discriminatory action. The petitioner has filed representation dated September 18, 2016 demanding justice, copy of which is placed at Annex P-11, but the same has not been dealt with and decided so far as no decision on the representation has been conveyed to the petitioner. The statement of Mr. Mor is recorded that the petitioner has not been relieved from duty till today.

2. In view of this position, Mr. Jasbir Mor learned counsel appearing for the petitioner prays that his client will be satisfied if a direction is issued to the Director, Elementary Education, Haryana, to consider and decide the representation by passing a speaking order. In

doing so, the petitioner may supply a copy of this petition which will be treated as a supplementary representation to be decided together with the representation already filed and final orders be directed to be passed thereon.

3. The prayer is found reasonable and in conformity with the well settled principle that in the first instance, the administrator in a case involving transfers and posting must decide the grievance in accordance with law and consequently, a direction is issued to the Director Elementary Education, Haryana, to decide the representation within 7 days from the date of receipt of a certified copy of this order and communicate the order in writing to the petitioner, in case the decision is adverse to him. Needless to say that the petitioner would have a right to be heard in case a decision is proposed against him. However, in case the representation of the petitioner is found creditworthy then it would not be necessary for the Director to pass a speaking order containing reasons and suitable office orders issued as per choice and merit points. However, till then status quo with respect to the services of the petitioner will be maintained as prevailing today.

Notice of motion.

On the asking of Court, Mr. Harish Rathee, Sr. D.A.G., Haryana, accepts notice on behalf of the official respondents and waives service on them. Mr. Mor to supply requisite number of the paper-books in the Office of Advocate General Haryana with one advance copy to Mr. Rathee during the course of the day.

Notice to non-official respondents is not being issued since this order expresses no opinion on the merits of the case or on the rights of the parties *inter se*. Suffice it to say that when the 2nd respondent considers

passing orders pursuant to this order, he would be within his right to hear the private respondents before he makes a final order.

The petition is partially allowed to the extent indicated above.

Order dasti.

(RAJIV NARAIN RAINA)
JUDGE

21.09.2016
monika

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>