

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

LPA No. 1391 of 2015 (O&M)

Date of decision : 13.5.2016

Sunil Kumar and others

.. Appellants

versus

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Partap Atma Ram, Advocate,
Mr. B. S. Rana, Senior Advocate with
Mr. Gagandeep Singh Rana,
Mr. Narender Hooda, Senior Advocate with
Mr. Jasbir Mor, Advocate and
Mr. Vikas Kuthiala, Advocate, for the appellants.

Mr. Lokesh Sinhal, Additional Advocate General, Haryana.
Mr. Jagbir Malik, Advocate, for the caveator.

Rajesh Bindal, J.

1. This order will dispose of six appeals bearing LPA Nos. 1391, 1580, 1797, 1805, 1806, 1851 of 2015. However, the facts have been extracted from LPA No. 1391 of 2015.

2. This case pertains to Guest Teachers belonging to the category of Trained Graduate Teachers.

3. The role of the teachers was highlighted by Hon'ble the Supreme Court in Andhra Kesari Educational Society vs Director of School Education (1989) 1 SCC 392. Relevant para thereof is extracted below:-

“20.... Though teaching is the last choice in the job market, the role of teachers is central to all processes of formal education. The teacher alone could bring out the skills and intellectual capabilities of students. He is the 'engine' of the educational system. He is a principal instrument in awakening the child to cultural values. He

needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefiter. He must keep himself abreast of ever-changing conditions. He is not to perform in a wooden and unimaginative way. He must eliminate fissiparous tendencies and attitudes and infuse nobler and national ideas in younger minds. His involvement in national integration is more important, indeed indispensable.”

4. The observations made by Hon'ble the Supreme Court in State of Maharashtra vs Vikas Sahebrao Roundale (1992) 4 SCC 435, pertaining to the role of teacher are extracted below:-

“12. The teacher plays pivotal role in moulding the career, character and moral fibres and aptitude for educational excellence in impressive young children. Formal education needs proper equipping of the teachers to meet the challenges of the day to impart lessons with latest techniques to the students on secular, scientific and rational outlook. A well-equipped teacher could bring the needed skills and intellectual capabilities to the students in their pursuits. The teacher is adorned as Gurudevobhava, next after parents, as he is a principal instrument to awakening the child to the cultural ethos, intellectual excellence and discipline. The teachers, therefore, must keep abreast of ever- changing techniques, the needs of the society and to cope up with the psychological approach to the aptitudes of the children to perform that pivotal role. In short teachers need to be endowed and energised with needed potential to serve the needs of the society. The qualitative training in the training colleges or schools would inspire and motivate them into action to the benefit of the students. For equipping such trainee students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled

to recognition. In that behalf compliance of the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education.”

5. The aforesaid judgments were referred to by Hon'ble the Supreme Court in Adarsh Shiksha Mahavidyalaya vs Subhash Rahangdale (2012) 2 SCC 425.

6. The importance of a teacher as narrated by Pandit Mohan Malavia (the founder of the Banaras Hindu University) was highlighted in the following lines:-

“.... It lies largely in his teacher's hand to mould the mind of the child who is father of the man. If he is patriotic and devoted to the national cause and realizes his responsibility, he can produce a race of patriotic men and women who would religiously place the country above the community and national gain above communal advantage.”

7. Despite everybody knowing the fact that the teachers are playing important role in the society in whose hands is our future generation, still they are being treated with adhocism at all levels. They are being compelled to come to the Court every, now and then. Instead of concentrating on the studies of the children, they remain more involved in Court cases, which are avoidable, in case the State takes timely action for settling their grievances. Not only the teachers, even department also remains busy in court cases, instead of using that time for more productive work which could result in improving the system.

8. The case in hand has a chequered history where the Guest Teachers appointed in the State of Haryana had many rounds of litigation. Despite there being directions by this Court to make time bound regular appointments, the same were not complied with by the State and the Guest Teachers are continuing either on their plea or of the State that interest of the students may not suffer.

9. Challenge has been made to judgment of the learned Single Judge dated 6.7.2015 passed in CWP No. 12689 of 2015 deciding a bunch

of petitions and the subsequent order dated 15.9.2015 passed in Review Application bearing RA-CW-320 of 2015 in CWP No. 12689 of 2015. The Review Application was filed by the appellants in terms of the liberty granted by this Court to them vide order dated 30.7.2015 passed in LPA No. 1101 of 2015.

10. The appellants in the bunch of present appeals filed the writ petitions impugning notices dated 11/15.6.2015, issued to them to show cause as to why their services as Guest Teachers be not dispensed with, as no longer required. The writ petition was dismissed by the learned Single Judge vide judgment dated 6.7.2015 opining that the appellants were back door entrants. Against the judgment of learned Single Judge, the appellants preferred LPA No. 1101 of 2015, which was disposed of permitting the appellants to file Review Application. The Review Application was also dismissed vide order dated 15.9.2015. This is how the matter is before this Court.

11. The primary contention raised by learned counsel for the appellants is that keeping in view the requirement of teachers as assessed by the State, the appellants cannot be said to be surplus. The moment regular selections are made, their services may be dispensed with, but till such time, as studies of the students are going on, they should be allowed to continue. It was further submitted that all the Guest Teachers are working in the schools in the rural areas where the regular teachers are not willing to discharge their duties. There are many schools where the teachers posted are far less than the required strength. It is not disputed by them that after their initial appointments way back in the year 2005-2006, there had been regular selection of teachers of different categories in the State of Haryana, but still the Guest Teachers were permitted to continue as the requirement was still existing. Further reference was made to the affidavit of Mr. D. S. Dhesi, Chief Secretary, Government of Haryana, dated 10.5.2015, wherein it has been stated that there are no surplus Guest Teachers. Even the State made a prayer for permission to grant extension in service to the Guest Teachers till such time, regular appointments are made. He further submitted that only the present TGT Guest Faculty is sought to be removed on the ground that they have become surplus, whereas the Guest Teachers in JBT and PGT are

still continuing. Reference was also made to the meetings of the officers of the Department with the Chief Minister wherein it was opined that the State should withdraw the order dispensing with the services of the Guest Teachers.

12. The Haryana School Education (Group C) State Cadre Service Rules, 2012, were referred to show the sanctioned strength of the teachers as compared with the teachers available.

13. Mr. B. S. Rana, learned senior counsel appearing for some of the appellants stated that though the directions issued by this Court in CWP No. 6090 of 2010 - Tilak Raj vs State of Haryana and others, decided on 30.3.2011, were complied with as fresh appointments were made, however, as vacancies still existed, the appellants who had been earlier allowed to continue should even now be allowed to continue till the regular selections are made. He further submitted that their appointments cannot be termed to be back door entry as they were appointed in terms of the policy decision taken by the Government. At that time, the teachers belonging to the areas close to the schools were appointed as they were more serious about imparting education to the students in the area, to which they belonged.

14. Mr. Rajiv Atma Ram, learned senior counsel appearing for some of the appellants referred to the statutory rules showing the number of sanctioned posts and also the cadre rationalisation done by the State in the year 2015 in terms of which there are no surplus teachers. Hence, the ground on which the services of the appellants is sought to be dispensed with cannot be legally sustained.

15. On the other hand, learned counsel for the State firstly pressed Civil Misc. No. 3309-LPA of 2015 filed by it stating that the State should be allowed to proceed with the decision taken in the meeting dated 12.12.2015 by utilising the services of the Guest Teachers, whose services were earlier dispensed with on the ground that they had become surplus, till the finalisation of the recruitment / promotion process for regular appointments. On a specific query asked by the Court as to whether the State is ready to withdraw the order dispensing with services of the appellants, the answer was in negative apprehending contempt of this Court. This clearly meant that orders earlier passed by this Court were not being

complied with. He further submitted that posts have already been advertised and the process of selection is in progress. However, to safeguard the interest of the students, the State may be allowed to use the services of the Guest Teachers till such time the regular appointees join.

16. Further information as furnished by learned counsel for the State at the time of hearing was that the Guest Teachers were appointed in the year 2005 as a stop gap arrangement. From 2006, there had been regular appointments in the cadre but still the Guest Teachers were permitted to continue. The regular appointments in the category of TGT were made in the year 2006 and 2009. The process now initiated in the year 2015 is yet to conclude. For PGTs there had been regular selections in the year 2006, 2012, and the process started in the year 2015 is in progress.

17. It was further submitted that presently the services of the TGTs are sought to be utilised for teaching classes 9 and 10, which are otherwise taught by PGTs on account of their non-availability. Another startling fact disclosed by learned counsel for the State was that recently in March, 2016, on verification of entire data in the State of Haryana, it was found that as against enrollment of 22 lacs students in Government schools in different classes, in fact, 18 lacs students were found. 4 lacs fake admissions were found. The apparent reason therefor may be certain benefits which are given to the students belonging to Backward or poor sections of the society to encourage them to attend schools or the mid day meal scheme. He further apprised the Court that now 3032 TGTs were promoted as PGTs, as a result of which there would be short fall of TGTs. The process of selection as TGTs has been stayed by this court. The present calculation of requirement of teachers has been assessed in terms of the student-teacher ratio as provided under the Right of Children to Free and Compulsory Education Act, 2009. The process for promotion from TGTs to PGTs is also in progress. He was candid enough in stating that even after the judgment of this court in Tilak Raj's case (supra), none of the Guest Teacher was removed, rather they were adjusted against other posts. Finally they were removed in June, 2015, but were again appointed with the permission of the Court till the conclusion of the current session at that time.

18. Mr. Malik, learned counsel for the applicants submitted that the State is playing hide and seek in the present case. Despite appointment of thousands of teachers on regular basis after the judgment in Tilak Raj's case (supra), services of none of the teachers were dispensed with. Some of the TGTs are being deputed to teach classes which are meant for PGTs. In fact wherever regular selected teachers joined duty, the instruction issued by the Government was not to dispense with the services of the Guest Teacher, rather to adjust him in other school.

19. He further referred to letter dated 1.4.2016 issued by the Directorate School Education, Government of Haryana, vide which 306 PGTs, were transferred to different schools against vacant posts from the schools with zero student strength or workload in their respective subjects. He further submitted that these teachers were allowed to continue for one year, without there being any work. In fact, the department is not providing correct data to this Court. There had been no rationalisation exercise in the department from the year 2012 onwards. Even after verification, actual student strength was reduced by 4 lacs that was nearly 20% of the total strength, the requirement of teachers will automatically be reduced. Hence, no data furnished by the State can be said to be reliable as this aspect was not considered even in the rationalisation exercise conducted by the State in the year 2015. There are more such schools, where the teachers were allowed to continue without there being any workload for different reasons. He further submitted that whenever a Guest Teacher was removed from service, the instructions were issued to re-employ him even after a gap of 2 to 4 months. Hence, the stand of the State that after 2005-06, there had been no employment of the Guest Faculty is patently wrong. He further submitted that the duties of the Elementary School Head Masters, who are 3000 in number were not defined. It was decided vide office order dated 6.1.2014 passed by the Additional Chief Secretary, School Education Department, Haryana, that they be also granted workload at par with the TGT (Trained Graduate Teacher/ Master). Meaning thereby availability of additional 3000 TGTs. He further submitted that mere fact that State has filed application bearing CM No. 967-LPA of 2016 in LPA No. 1391 of 2015 seeking permission of this Court to permit the Guest Teachers to continue in service

till the regular selections are made shows connivance of both the parties resulting in depriving eligible candidates chance of appointment on regular basis.

20. Mr. Jagbir Malik, learned counsel for the applicants also pressed his application bearing CM No. 971-LPA of 2016 in LPA no. 1391 of 2015 filed under Article 215 of the Constitution of India for initiating proceedings for contempt against the officers for deliberate non-compliance of the directions issued by this Court.

21. Heard learned counsel for the parties and perused the paper book and the relevant referred records.

22. The plain and simple case set up by the appellants is that no doubt they were appointed as Guest Teachers and their appointment was to come to an end on appointment of regular teachers in their category, but till such time, the regular teachers are appointed, the appellants should be allowed to continue. It was further argued that even the stand of the State is also same as is evident from the affidavit of Dr. Virender Kumar Dahiya, Additional Director Elementary Education, Haryana, Panchkula, dated 18.10.2015 filed with CM No. 3309-LPA of 2015, stating that process for selection of regular teachers is in advance stage, hence, they should be allowed to continue till then. Certain data has been provided in the paper book in support of the arguments, specially the one annexed with CM No. 3309-LPA of 2015, which established that the appellants are not surplus at this stage. It was argued that the aforesaid data being not before the learned Single Judge at the time of decision of the writ petition, the order deserves to be set aside.

23. First matter as was referred to at the time of hearing pertaining to Guest Teachers came up for consideration before this Court in Tilak Raj's case (supra), where the Division Bench of this Court issued directions after taking into consideration the schedule given by the learned Advocate General in Court pertaining to the regular selection of teachers. The relevant parts of the judgment are extracted below:-

“At the resumed hearing of the matter yesterday i.e. 29.03.2011, taking into account the aforesaid facts stated in the two affidavits of the departmental Secretary, the Court had

desired to note what would be the possible timeframe within which the TET and, thereafter, the process of regular selection can be finalized by the State. Pursuant to the aforesaid query made by the Court, Mr. Hawa Singh Hooda, the learned Advocate General of the State had prayed for a brief adjournment and at the resumed hearing on the same day, i.e. yesterday, he placed before the Court a tentative schedule for holding the TET and a schedule for simultaneous direct recruitment of teachers on a regular basis against available vacancies and such additional vacancies that may now be required to be filled up in view of the provisions of the Right to Education Act. The aforesaid two schedules may be extracted hereinbelow:

Tentative S.T.E.T. Schedule of Examination

(A) Pre-Examination:

Sr. No.	Activity to perform	Execution Dates
1.	Approval of prospectus from Govt.	By 7.4.2011
2.	To select the agencies either by inviting short tenders or collection of sealed rates through authorized committee, for printing of prospectus and OMR application forms	By 4.4.2011
3	Printing and supply of prospectus/ envelopes & OMR applications at Board's H.Q. Expected application can be 2.50 lacs.	6.4.2011 to 26.4.2011
4.	Sale of prospectus and collection of applications through DCC's or other authorized source.	15.4.2011 to 2.5.2011
5.	Collection of applications category-wise & preparation of batches after every 3rd day and supply to agency for processing. Envelopes are to be opened by agency.	20.4.2011 to 5.5.2011
6.	Finalization of building for centers after inspection & getting approval.	6.4.2011 to 25.4.2011
7.	Applications delivery to agency for processing.	22.4.2011 to 9.5.2011

8.	Data checking, corrections, editing and cropping of images i.e. photo, sign, address.	13.5.2011 to 25.5.2011
9	Allotment of centers & Roll numbers.	23.5.2011
10.	Center-wise question paper packing reports.	23.5.2011
11.	Printing of answer sheets (OMR) with barcodes aprox. 5.0 lacs in quantity.	Parallel process 10.5.2011 to 31.5.2011
12.	Printing of question papers with answer sheet clubbed with question paper packet and centerwise packing.	Parallel process 20.5.2011 to 10.6.2011
13.	Supply of Admit Cards and signature chart center-wise to Board's office.	3.6.2011
14.	Dispatch of admit cards.	6.6.2011 to 9.6.2011
15.	Downloading of admit cards from Board's website.	From 13.6.2011
16.	Date of examination for Elementary Teachers (for class 1-5).	25.6.2011 Saturday
17	Date of examination for Masters	26.6.2011 Sunday
18.	Date of examination for Elementary Teachers (for class 6-8).	27.6.2011 Saturday
19.	Date of examination for Lectures.	28.6.2011 Sunday

(B) Post-Examination:

1.	Collection of answer sheets after examination	At night on day of examination.
2.	ICR scanning of answer sheets and cropping of & sign by agency.	29.6.2011 to 10.7.2011 (all categories)
3.	OMR scanning of answer sheets by two different agencies.	Parallel process 1.7.2011 to 15.7.2011

4.	Collection of scanned data to identify errors and subsequent editing to prepare result.	17.7.2011
5.	Rectification of errors if any.	18.7.2011 to 21.7.2011
6.	Compilation of result/ declaration of result.	23/25.7.2011
7.	Printing of certificates	25.7.2011 to 28.7.2011
8.	Dispatch of certificates	28.7.2011 to 30.7.2011

Notes:

1. Subject-wise printing of question papers and center-wise packing can start only after finalization of database.
2. Haryana Open School and D.Ed. examinations will start in the last week of April and will continue till second week of May.
3. Results of Secondary and Senior Secondary Examinations are scheduled to be processed and declared during this time. Therefore, staff of the Board will be busy in the process of declaring results and preparing various reports in this regard and will not be available if STET is to be conducted in these days.

Requisition Schedule for recruitment

The department has to undertake the following processes before finalizing the requisitions for recruitment:

- a) Rationalization of teachers i.e. adjustment of teachers according to workloads.
- b) Assess the impact of RTE 2009 on the total requirement of teachers.
- c) Effecting transfers as per Departmental Transfer Policy.

It is envisaged that the above processes shall be completed by 31st of May 2011. The department shall then place requisitions with the recruiting agencies and urge the agencies to complete their recruitment process by 31st

December 2011 so that the newly appointed teachers can be trained and put in place by the start of academic session i.e. 1st of April 2012.

Category	Date by which requisition shall be sent	Time frame for finalization of recruitments by recruiting agency
JBT/ Masters/ Lectures	By 30th June 2011	By 31st December 2011

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The Schedules that have been laid before the Court by the learned Advocate General Haryana with regard to the different phases of the TET and the simultaneous process of regular recruitment could be a satisfactory option. Perusing the aforesaid two Schedules, we have noticed that the same have been prepared with meticulous care. The rights of the different rival groups and the competing interests that have surfaced in the case can be adequately taken care of by a strict adherence to the aforesaid Schedules. We are, therefore, of the view that this PIL should now be disposed of in terms of the directions indicated below:

- (1) While it will be open to the State to extend the tenure of the guest teachers, at all levels, such extensions shall not be beyond 31.03.2012. In fact, on the expiry of the said date i.e. 31.03.2012, the services of all the guest teachers shall be understood to have lapsed in terms of the present order and it will not be open for the State to continue any such guest teacher in service;
- (2) There will be no further appointment of guest teachers during the next academic year starting from 01.04.2011 and the shortfall, if any, in the number of teachers will have to be met with by the State by undertaking a precise and accurate exercise of posting and re-posting of teachers according to the needs of each school.
- (3) The Schedule for holding the TET examination laid

before the Court, which has been extracted in the present order, shall be strictly adhered to without any deviations and any departure from the said Schedule which has the effect of compromising the terms of the present directions will be viewed by the Court as an action liable to be dealt with in the exercise of its contempt jurisdiction;

- (4) The Schedule for holding the regular selections laid before the Court and incorporated in the present order will also be similarly adhered to and any deviations therefrom will be viewed in a similar manner;
- (5) The timeframe mentioned in the above Schedules shall be construed to be the outer limits of the time allowed by this order and it will always be open for the State to complete the process on dates earlier than those indicated in the aforesaid time schedule.”

24. The matter went up to Hon'ble the Supreme Court where vide order dated 30.3.2012, passed in Special Leave to Appeal (Civil) No. 5956-5957 of 2012 Naresh Kumar and others vs State of Haryana and others, the following directions were issued:-

“7. Having heard the learned Attorney General for India, Mr. Subramaniam and Mr. Vishwanathan learned senior advocates, for the parties and also keeping in mind the submissions made by Mr. Vishwanathan, that the intention of the Division Bench of the High Court was that no further appointments of 'Guest Teachers' should be made after 1st April, 2012, and that the vacancies should be filled up by posting and reposting teachers in the different institutions, we feel that the two things should really be kept separate, notwithstanding the apprehension voiced by Mr. Vishwanathan, that this could lead to continuance of appointment of 'Guest Teachers'.

8. We make it very clear that as directed by the

Division Bench of the High Court, no fresh appointments of 'Guest Teachers' will be made from 1st April, 2012. However, since students also cannot be made to suffer on account of the delay in the appointment of regular teachers, we direct that the exercise indicated in the scheme, must be completed within the time specified in the scheme and no further extension or deviation therefrom will be permitted.

9. Till then the 'Guest Teachers' may be allowed to continue to function, as they have been doing so far.”

25. The above schedule fixed by this Court was not adhered to and even after 1st April, 2012 fresh appointments of Guest Teachers were made by circumventing orders passed by the Courts. In fact, the manner in which Guest Teachers are being allowed to continue shows that the Courts were mislead at various times by not providing correct facts and the data and projecting a situation making the court think that there is emergent situation, hence, State should be allowed to continue with their services further.

26. The observations made by this Court in LPA No. 834 of 2015 Dalbir Singh and another vs Seema Devi and others decided on 28.5.2015, in the earlier round of litigation pertaining to Guest Teachers, are extracted below:-

“[5] Having given our thoughtful consideration to the submissions, we are unable to accept the same. We say so for the reasons that (i) in terms of the directions issued by this Court in Tilak Raj's case (supra), services of Guest Faculty Teachers were required to be dispensed with by 31.03.2012 and that order was duly upheld by the Hon'ble Supreme Court. However, the cut off date was extended from time to time for one or the other reason; (ii) the learned Single Judge has found no rhyme or reason for extending such date hitherto as their appears to be lack of bonafide on the part of State authorities in not honouring the previous Court directions which have attained finality, (iii) there appears

to be some sort of collusion between Guest Faculty Teachers and the authorities, for the reasons best known to the later, who have been taking one or the other stances, sometimes contradictory also, with a view to retain the Guest Faculty Teachers instead of making regular recruitments, (iv) there are concerted efforts to defy the Court's directions and create a situation where the Court becomes helpless in giving time bound directions. The resultant effect is that from last more than three years the Guest Faculty Teachers, who in total are exceeding 16000 and out of whom 4073 have been identified as surplus, are still retained in service, may be so as to preserve the vote bank or for the reasons other than merit, administrative or public interest.” (emphasis supplied).

27. It has been specifically observed by this Court that cut off date fixed by this Court as observed by Hon'ble the Supreme Court was not adhered to and further that there appears to be some sort of collusion between the Guest Teachers and the authorities for the reasons best known to them, who had been taking contrary stand. With a view to retain the Guest Teachers, regular recruitments were not made. There had been concerted efforts to defy the Court's directions and create a situation where the Court becomes helpless.

28. Another important fact which was stated by Mr. Lokesh Sinhal, learned Additional Advocate General appearing for the State was that on computerisation of the entire data and verification process, it was found that as against registration of about 22 lacs students in different government schools in the State of Haryana, about 4 lacs admissions were found to be fake and the actual strength was found about 18 lacs. That would directly mean that whatever assessment had been made by the State for recruitment of teachers even after rationalization was not correct, as that exercise was done prior to the aforesaid verification of actual students' strength in the schools. Meaning thereby, on the basis of the data available earlier for different classes, no justification could be made by the State for permitting

it to continue with the services of the Guest Teachers. The aforesaid fact has brought out another skeleton from the cupboard of the Education Department as benefit being extended to the students in the schools must have been on the paper strength of 22 lacs as against 18 lacs actually found. Apparently, the matter was left as it is and not taken to its logical end by identifying persons responsible.

29. The fact that there had been no proper utilisation of the sources and rationalization is also evident from the fact that on 1.4.2016, 306 PGTs were transferred by the Directorate School Education with the following note in the order:-

“The following PGTs having zero student strength/ no workload at their respective subject at present place of posting are hereby adjusted at place mentioned against their names on administrative need with immediate effect.”

30. There may be many more if further exercise is carried out. No one knows for how long they had been allowed to continue as such being paid salaries without work.

31. Another fact which remained undisputed was that on 6.1.2016, the Additional Chief Secretary to Government of Haryana, School Education Department, Chandigarh, passed an order, which suggested that earlier no work was defined for Elementary School Head Masters and on consideration of the matter, it was decided that they be also granted workload at par with TGT (Trained Graduate Teacher/ Master). The number thereof was stated to be 3000. Meaning thereby that 3000 more TGTs became available from the teachers already working in the cadre. The contents of the letter of the Additional Chief Secretary are extracted below:-

“The Post of Elementary School Head Master was sanctioned vide notification No. GSR-12/Const./Art.309/2012 dated 11.04.2012, but the work load to Elementary School Head Master i.e. ESHM was not defined. The matter has been considered and it has now been decided that the ESHM be granted work load at par with TGT (Trained Graduate Teacher/ Master).

Necessary compliance of this order be made accordingly.”

32. As per the figures provided by Mr. Lokesh Sinhal, learned Additional Advocate General, Haryana, there were total 1931 PGTs and 4143 TGTs working as Guest Teachers as on date. It was also the case set up by the State that 3032 TGTs were promoted as PGTs.

33. Another fact which also remained undisputed was that ever since the Guest Teachers were appointed since the year 2005-06, services of none of them were dispensed with even after appointment of number of regular teachers. Even those Guest Teachers, whose services were dispensed with, were re-engaged even after 2 to 4 months of their removal. There was a policy of the Government in that regard circulated on 2.12.2008 vide memo no. 15/59-2005 CO (4). Despite directions issued by this Court in Tilak Raj's case (supra), as observed by Hon'ble the Supreme Court for making regular selections by 31.3.2012, the seriousness with which the Government was working is evident from the fact that in the cadre of TGTs, no fresh selections were made thereafter till the issuance of advertisement in the year 2015, against which the recommendations are yet to be made. In the cadre of PGTs 10,232 appointments were made in the year 2012, but still services of none of the Guest Teachers appointed were dispensed with, except those selected on regular basis, though there was a clear direction that after regular appointments are made, the Guest Teachers will not be allowed to continue. From the aforesaid facts, it is established that the State had circumvented the order passed by this Court either by not making the regular appointments and allowing the Guest Teachers to continue or despite making large number of appointments, adjusted the Guest Teachers against other vacancies. All the vacancies in any other cadre are never filled up.

34. Even in the present appeals, as during the pendency thereof, services of the Guest Teachers were dispensed with from June, 2015, Civil Misc. No. 3309-LPA of 2015 was filed by the State raising the plea that the study of the students may suffer, hence, they may be permitted to utilise the services of the already terminated teachers for teaching classes 9th and 10th. It was specifically stated that the process for recruitment has already started,

which is likely to be completed by 31.3.2016. This Court asked the State to file specific affidavit in that regard. Again relying upon the apparent false stand taken by the State, this Court still granted permission to engage already terminated Guest Teachers upto 31.3.2016. The order passed by this Court in Civil Misc. No. 3309-LPA of 2015 on 20.11.2015 is extracted below:-

“The present Letters Patent Appeal has been filed against the order dated 06.07.2015 passed by learned Single Judge, whereby the writ petition (CWP No.12689 of 2015), filed by the appellants, challenging the order of termination of their services on the ground that the post on which they were working has been declared surplus, has been dismissed.

The aforesaid appeal is listed for hearing on December 15, 2015. In this appeal, the State of Haryana, has filed this application, in which they are seeking permission from this Court to utilize the services of the surplus terminated guest teachers to teach 9th and 10th classes of high schools/secondary schools. The State of Haryana has mainly taken the plea that there is acute shortage of teaching staff and there is deficiency of near about 8145 PGTs. The State has already started the process of recruitment but the same is still to take some time and by putting best efforts the process is likely to be completed by 31.03.2016. Because of non-availability of teaching staff, the study of more than 1,17,000 students shall be adversely affected and just to protect their interest, the State of Haryana filed the present application for utilizing the services of surplus terminated teachers by engaging them to teach the students of Classes 9th and 10th in the aforesaid schools during the intervening period i.e. up to 31.03.2016.

On the last date of hearing, the case was adjourned to enable the State Government to file an affidavit to the

effect that the engaging of these surplus terminated teachers for teaching of aforesaid classes is purely temporary arrangement and the services of these teachers shall be utilized up to 31.03.2016 and thereafter their engagement shall automatically stand dispensed with.

In response to that, affidavit of Virender Kumar Dahiya, HCS, Additional Director Elementary Education, Haryana, has been filed and the same is taken on record.

In para of 4 of the said affidavit it has been stated that the recruitment process has already been started for recruiting of PGTs and TGTs and they will try to complete the said process before 31.03.2016. In this regard, it has also been specifically stated in the affidavit that the guest teachers shall be engaged purely as a stop gap arrangement and their services shall automatically stand dispensed with on 31.03.2016. These guest teachers will be paid the consolidated amount.

We hope that the State Government shall adhere to the time schedule strictly so that the study of the students may not suffer in future, as the present arrangement is being made only for the limited period i.e. up to 31.03.2016. Before engaging any such surplus terminated teachers, the State Government will take affidavit from them that they will not claim any right under this arrangement. It has also been stated by the State counsel that 54 PGTs, who have already been selected, the appointment letters have been issued and they will be allowed to join the services before the engagement of other guest teachers. The present arrangement made vide this order will not prejudice the rights of the appellants in the main appeal. In the meanwhile, we also direct the State Government to try to complete the selection process, by way of promotion as well, from TGTs to PGTs and JBTs to TGTs so that the deficiency of teachers under TGTs and

PGTs cadre may be made good.

In view of aforesaid terms and conditions, the State is permitted to engage the services of the surplus terminated guest teachers up to 31.03.2016 as a stop gap arrangement.

Accordingly, the present application is disposed of.”

35. Despite the statement made before this Court that selections will be made by 31.3.2016, there is no progress made, as yet another application was filed seeking permission to let the Guest Teachers continue which shows the conduct of the State.

36. There is another document on record at page 305 of the paper book, which is a list of 719 Guest Teachers, who were allegedly engaged in violation of the departmental instructions/ policy. The list suggested that many of them were not eligible, not having requisite qualification or appointed without following the procedure or having qualification from unrecognised educational institution, besides other reasons such as over-age, etc. It established the intention of the Government in not making recruitment and allow the guest faculty to continue by circumventing order. Dead line fixed as 11.3.2012 in Tilak Raj's case (supra) has not been complied with till date.

37. For the reasons mentioned above, we do not find any reason to interfere with the judgment of the learned Single Judge passed in the writ petitions and the review applications as the connivance of the appellants and the State as even observed by this Court earlier in Dalbir Singh's case (supra), is well established beyond doubt. This Court cannot be a party to their design. All what is evident is that there is total adhocism in the department of Education, which is dealing with our future generations. This Court had to take a strict view this time considering the fact that compassion shown by the Court from 2012 onwards was being misused by both the parties.

38. As far as the initiation of proceedings of contempt against the respondents is concerned, it may be added that two of the senior officers of the Education Department have already been convicted for non-compliance of the order passed by this Court in one case and in another by Hon'ble the

Supreme Court. In the case in hand, the data provided by the parties is not that authentic, hence this Court would not like to initiate contempt proceedings and would like to close the chapter of adhocism once for all by not permitting the Guest Teachers to continue any further.

39. Before parting with the order, we would like to direct the State to conduct thorough enquiry by appointing a senior officer about the syphoning of funds for non-existent 4 lacs students. Responsibility be fixed and action taken commensurate to the guilt proved so that the same has deterrent effect for the others as otherwise generally the officers/ officials found guilty even for serious charges including corruption are many a times let off with minor punishments. We hope that the State will be serious in the present matter and set an example for future so that none dares to even think of these kinds of designs of corruption. In the present case the offence is compounded considering the fact that it is by the people entrusted with responsibility to teach future generations. What message a person indulging in corruption himself can give to the students. They have to be role models. But unfortunately the position is just reverse.

41. The report be placed before the Court. For that the matter be listed on 11.11.2016.

42. For the reasons mentioned above, the appeals are dismissed.

(Rajesh Bindal)
Judge

13.5.2016
vs

(Harinder Singh Sidhu)
Judge

(Refer to Reporter)