

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

CWP No.11909 of 2014 (O&M)

Date of decision:29.08.2017

Pritpal Kaur & others

... Petitioners

Vs.

State of Punjab & others

... Respondents

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

Present: Ms. Seema Pasricha, Advocate for the petitioners.

Mr. Anupam, Singla, Advocate for respondents.

...

TEJINDER SINGH DHINDSA, J.

The instant writ petition is directed against the order dated 28.05.2014 passed by the Principal Secretary, Education Department, State of Punjab (Annexure P-4) and in terms of which the services of the petitioners herein who were working as Education Volunteers, have been terminated.

Counsel representing the petitioners would contend that there were 3 posts of Education Volunteers to be filled up in Government Primary School, Gillan Wali, Block Dhianpur, Gurdaspur and after following due procedure, the present petitioners along with one Paramjit Kaur had been engaged in the year 2008. Further submitted that a candidate, who had not been selected, namely, Smt. Rajni Bala had filed a complaint against Paramjit Kaur (non-petitioner) and in pursuance to which, an inquiry had been conducted. Further submitted that in such inquiry, the petitioners had never been associated and ultimately, a finding had been recorded that no

munadi was conducted in the village and accordingly, the initial engagement of all the three Education Volunteers was not proper.

Counsel would argue that due *munadi* and procedure had been followed at the time of their initial engagement and under such circumstances, the impugned order having been passed after a period of six years of the initial engagement, cannot sustain. Reliance has been placed upon document placed on record at Annexure P-7 which is in the nature of statement having been given by seven residents of the village concerned to the effect that *munadi* towards making appointment on the post in question had been done.

Upon notice of motion having been issued, a written statement on behalf of contesting respondent No.2 i.e. State Project Sarv Siksha Abhiyan Authority, Punjab has been placed on record. Stand taken on behalf of contesting respondent is that under the Sarv Siksha Abhiyan Project, Block Resource Persons were appointed as the key functionaries of the Project. Such Block Resource Persons were taken on deputation/appointed from amongst the regular Teachers working in the schools. Appointment of Block Resource Persons created a situation of shortage of teachers in the concerned schools and accordingly, instructions/guidelines had been issued from time to time to appoint Education Volunteers/Siksha Karmis in the concerned schools in lieu of the appointment of regular teachers as Block Resource Persons. The objective of appointment of Education Volunteers was to ensure that the studies of the students at the school in question is not disturbed. The engagement of Education Volunteers is stated to be a stop-gap arrangement and as and when the deputation of the regular teachers who had been appointed as

Block Resource Persons came to an end, the Education Volunteers so appointed were to be relieved.

It has gone undisputed that instructions dated 29.11.2004 were issued and under which, Village Education Development Committees (hereinafter to be referred to as 'VEDC') were constituted under the Project and who were empowered to appoint the Education Volunteers. Authority had been given to engage 3 Education Volunteers in lieu of one Block Resource Person taken from the concerned school. The criteria was also laid down for selection of Education Volunteers that he/she must be of the same village and if not available in the village then the candidate must be from the surrounding/nearest village. The age gap was stipulated as 35 years. Essential qualification stipulated was graduation but preference was to be accorded to a candidate having higher qualifications like M.A. etc. The VEDC was to make appointments after duly notifying the recruitment process for the post of Education Volunteers by way of publication/proclamation/*munadi* in the concerned village.

Insofar as the impugned order is concerned, it has been clarified that on 29.08.2008, the VEDC in respect of village Gillan Wali had appointed 3 Education Volunteers including the 2 petitioners herein. One Smt. Rajni Bala had agitated the issue with regard to the appointments having not been made in a legal and valid manner. Finally, an inquiry was got conducted by the Deputy Circle Education Officer, Jalandhar. Findings were returned vide report dated 29.01.2014 to the effect that at the time of appointment of the Education Volunteers at Government Elementary School, Gillan Wali, the then Secretary of VEDC, Randhir Singh had violated the instructions/guidelines for appointment of Education

Volunteers and no *munadi*/publication/proclamation was done at the time of making appointments. Findings were further recorded by the Inquiry Officer that the role of Randhir Singh, the then Secretary, VEDC was not above board as he had removed the resolution book and had passed a number of forged resolutions by appending signatures of the members of VEDC. Accordingly, recommendations were even made to the competent authority to initiate departmental proceedings against the afore-noticed Randhir Singh. Such inquiry proceedings have finally culminated in passing of the impugned order at Annexure P-4.

Undisputedly, a procedure had been laid down to be followed for engagement of Education Volunteers. The initiation of recruitment process was in terms of due publication by way of *munadi*. The official respondent in pursuance to an inquiry having been conducted, has come to the conclusion that *munadi* had not in fact been conducted in the village. Under such circumstances, there would be no occasion for this Court to place reliance upon the document at Annexure P-7 i.e. the statement given by eight villagers and to held to the contrary. Counsel has not raised any submission so as to doubt the inquiry proceedings conducted by the respondent authorities, be it on the issue having been agitated by a non selected candidate, Smt. Rajni Bala.

It has further gone uncontroverted that prior to issuance of the impugned order dated 28.05.2014, the petitioners were issued show cause notices and to which replies had been duly filed. Even principles of natural justice had been followed and opportunity of personal hearing was granted prior to issuance of the impugned order.

Petitioners in the instant petition have not demonstrated their

vested right to hold the post. Their initial appointment as is reflected in the written statement was purely on a stop-gap measure.

Mr. Anupam Singla, learned counsel representing the contesting respondents has further apprised the Court that the National Council of Teachers Education (hereinafter to be referred to as 'NCTE') had issued instructions dated 23.08.2010, wherein specific qualifications for appointment of teachers has been laid down. As per such instructions, a person to be eligible for appointment as a teacher is obligated to pass the Teachers Eligibility Test conducted by the State Government. Such instructions had been issued by the NCTE in exercise of the powers conferred under Section 23 of the Rights of Children to free and compulsory Education Act, 2009. A specific stand has been taken that the contesting respondent No.2 as also State of Punjab is committed to provide quality education in all the schools and accordingly, policy instructions/guidelines dated 29.04.2011 have been circulated and the Sarv Siksha Abhiyan Authority, Punjab has decided not to appoint any Education Volunteer w.e.f. 29.04.2011. Furthermore, the powers to appoint Education Volunteers have also been withdrawn from the VEDC.

In view of the discussion herein above, the prayer of the petitioners for setting aside the impugned order dated 28.05.2014 (Annexure P-4) and for the petitioners to be reinstated so as to work as Education Volunteers cannot be accepted.

Petition is dismissed.

29.08.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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