

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

**CWP No. 14179 of 2017
Date of Decision: 20.07.2017**

Ashish Goyal and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Naveen S. Bhardwaj, Advocate,
for the petitioners.

Mr. R.K. Doon, A.A.G., Haryana.

Mr. Suman Jain, Advocate,
for respondent no. 4 and 6.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioners have challenged the order stated to have been passed on 14.06.2017 (though not conveyed to the petitioners, as contended), relieving them from the posts of Post-Graduate Teachers, Trained Graduate Teachers and Primary Teachers.

The ground of challenge is essentially on account of the fact that it is contended that the Deputy Commissioner, Bhiwani, was not competent to pass the said order, he no longer being the Administrator of the society which runs the school, i.e. respondent no. 4.

In support of that contention, an order dated 01.06.2017, Annexure P-9, passed by the Registrar General of Societies-cum-Director Industries, Haryana, is relied upon, by which, on request of the Deputy Commissioner

himself, the Additional Deputy Commissioner, Bhiwani, was appointed as the Administrator of the society.

Thus, the contention is that if anybody were to pass any reliving orders for valid reasons on 14.06.2017, it could only have been the new Administrator and not the previous Administrator.

Notice having been issued, Mr. Jain has appeared on behalf of respondents no. 4 and 6 and has filed a reply to the petition, as has learned State counsel on behalf of the Deputy Commissioner, i.e. respondent no. 5, both of which are taken on record.

Mr. Jain has further submitted that as a matter of fact a regular recruitment process was undertaken by the school for appointment of teachers in various posts, including those manned by the petitioners, and in fact the petitioners also participated in the said process which is now complete, but appointment orders have not been issued in view of the interim order passed in this petition on 04.07.2017.

Learned counsel for the petitioner has not denied that the petitioners actually participated in the said process.

As regards the order dated 14.06.2017 having been issued by a non-competent authority, Mr. Jain has pointed to an endorsement on the order Annexure P-9, showing that though the order is shown to be passed on 01.06.2017, it was actually issued only on 15.06.2017 and therefore, the Deputy Commissioner was obviously not aware of the order having been passed.

Be that as it may, once an order appointing a new Administrator had been passed, possibly the orders of the Deputy Commissioner can be impugned on that ground, but the fact remains that the posts held by the petitioners, on an ad hoc basis, are proposed to be immediately filled in by process of regular selection,

which has already taken place, with only the appointment orders now to be issued

Consequently, this petition is disposed of with a direction that till the appointment orders of the regular selectees are not issued, the petitioners would be treated to have been on duty and would be paid salary for the said period, after which, immediately upon appointment orders of the regularly selected persons being issued, the petitioners right to continue on the posts would cease.

Learned counsel for the petitioners further submits that the petitioners may wish to challenge the selection process itself.

The said selection process not being subject matter of this petition, obviously if the petitioners challenge such selection process on valid grounds, such challenge would be considered by the appropriate forum before which such challenge lies, wholly on its own merits.

It is to be specified herein that this order has been passed in view of the fact that there is no serious challenge to the the issue of making payment of salary for the intervening period, especially as the reliving orders, at least technically, were not passed by the Administrator but by the previous Administrator.

However, with the respondent-school stated to be a wholly un-aided school, jurisdiction would otherwise seem to lie with the Education Tribunal concerned.

July 20, 2017
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes