

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

CWP No.9398 of 2016

Date of Decision:-01.03.2017

Kamaldeep.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Kanwal Goyal, Advocate for the Petitioner.

Mz. Sudeepti Sharma, Deputy Advocate General, Punjab
assistgd by Mr. Ashok Dogra, Sr. Assistant O/o
SSS Board, Punjab.

Mr. Shekhar Verma, Advocate for respondent no.37.

None for respondent nos.4, 7 to 10, 13, 15, 17, 19, 21 to 23
26 to 30, 32, 33, 33, 35 & 36.

JASWANT SINGH, J.

Through the present petition, petitioner-Kamaldeep, who had applied for the post of School Librarian under the General Category, has sought quashing of the impugned select list dated 19th of December 2014 (P5) issued by respondent No. 2, whereby his candidature has been rejected on the ground that he possesses the Diploma Certificate from a University situated outside the State of Punjab as the same is not legitimate according to guidelines issued by University Grants Commission, Government of India.

In the present case, notice of motion was issued on 13th of May 2016, wherein the State had accepted notice on behalf of respondents No. 1 and 2. The matter was adjourned for 23rd of May 2016 and then to 30th of August 2016 thereafter for 7th of December 2016 and again to 21st of December 2016. On 21st of December 2016, this court had observed that the petitioner was admittedly at serial No. 1 in the general category list (Annexure P-3) and has obtained 2 years diploma in Library and Information Science as a regular student from CMJ University, Meghalaya for the session 2012 and as per the information supplied by the UGC **Annexure P-6**, the said diploma is valid. The State Counsel had sought an adjournment to file a short reply in the light of the aforesaid contentions. Accordingly, the matter was adjourned for 18th of January, 2017.

However, on 18th of January 2017, State again prayed for an adjournment to file a reply on the factual contention noticed in the order dated 21st of December 2016. On the said day, it was apprised by the counsel for the petitioner that out of 36 vacancies advertised for the post of School Librarian under the general category, 6 posts are still vacant due to non-joining of the selected candidates. Observing this fact, this court had kept one post of school librarian in abeyance for the adjustment of petitioner in the eventuality of him succeeding in the present petition. Consequently, the matter was adjourned for today. However, even today the State Counsel has again prayed for time so as to file reply although, it is apparent that the State had taken numerous dates for filing reply and/or to verify the factual aspect. Under these circumstances, this Court is left with no other option, but to strike off the defence of respondents No. 1 and 2, who are the only

contesting respondents in the present case.

Ld. Counsel for the petitioner has vehemently argued that he was at serial No. 1 in the merit list **Annexure P-3** for the post of School Librarian, for which there was a requirement of 2 years diploma in library science. The petitioner has been kept out from the list of successful candidates dated 19th of December 2014 (**Annexure P5**) on account of the fact that the petitioner had diploma from CMJ University, Meghalaya. Reference has been made to the certificate (**Annexure P-2**) issued by CMJ University, Meghalaya to show that it was by way of a regular course and not by way of a distant education program and therefore, the condition regarding the legitimacy of the diploma from the said university will not be applicable. It was thus submitted that the action on part of respondents No. 2 for keeping out the petitioner from the final selection list on the ground that his candidature has been cancelled because he has obtained academic/profession certificates from the university situated out of the State of Punjab, being illegitimate according to guidelines issued by University Grants Commission, Government of India, illegal, arbitrary and against the principles of natural Justice.

On the other hand, Ld. counsel for respondents No. 1 and 2 has argued that although it is apparent from Annexure P-2 that the petitioner has done a regular course which has also been affirmed by the UGC in its reply to the RTI application (**Annexure P-6**) still, the action on the part of the respondents to not consider the candidature of the petitioner is justified because the petitioner had done course from CMJ University, Meghalaya.

After hearing the Ld. Counsel for the parties and after perusing the paper book, this court is of the opinion that the present writ petition

deserves to be allowed for more than one reason.

It is not in dispute that petitioner was at serial No. 1 on the merit list (**Annexure P-3**) wherein it has been shown that the petitioner had secured 71.3 marks. However, in the subsequent merit list prepared by the respondent Department **Annexure P-5**, the petitioner has not been shown to be selected candidate. A note 2 has been mentioned below the select list which reads as under:

“*Note 2: Those candidates who have submitted their academic/professional certificate from the other universities situated out of the State of Punjab their candidature have been cancelled because of the same not being legitimate according to the guidelines issue by University Grants Commission, Govt. of India.*”

In other words, as per respondent no 1 and 2, the candidature of the petitioner has been rejected for the reason that UGC does not consider Diploma in Library and Information Science (Two Year Diploma course) to be valid since it is not considered to be legitimate as per guidelines issued by UGC. However, Ld. Counsel for the petitioner has referred to document **Annexure P-6** i.e the information supplied by the Undersecretary and PIO of University Grants Commission, Bahadur Shah Zafar Marg, New Delhi under the Right to Information Act, 2005, wherein it has been mentioned as below:

Query	Reply
Whether the Diploma in Library and Information Science (Two year Diploma Course) conducted directly under CMJ University is approved by UGC?	Diploma in Library and Information conducted by CMJ University is valid if the course was conducted in regular mode at the main campus of the University.

In essence, the argument of Ld. Counsel for petitioner is that in case the petitioner has done a course in a regular mode from the main campus of CMJ University Meghalaya, then his diploma in library and information science from CMJ University is approved by UGC and thus, the action of the respondent No. 1 and 2 by not considering his diploma as valid, is bad in the eyes of law.

In order to substantiate his assertion that petitioner has done his course as a regular student from the main campus, he has taken this court through the documents **Annexure P-2 Colly** which are the education qualification as appended by him at the time of submission of his educational qualifications to respondent no 2. A bare perusal of the provisional certificate issued by CMJ University Meghalaya would show that the petitioner namely Kamaldeep bearing registration No. 95596811102063 has duly passed the diploma in library and information science examination 2012 conducted by the University and was placed in the 1st division. The relevant portion of the certificate reads as under:

“

Provisional Certificate

This is to certify that Kamaldeep bearing Registration No. 95596811102063 duly passed the Diploma in Library & Information Science Examination 2012 conducted by the University and was placed in the First Division.

Dated: 16th August 2012

Place: Shillong

Sd/-

Registrar”

(emphasis supplied) ”

This certificate is dated 16th of August 2012 and issued at

Shillong, which is the main campus of CMJ University, Meghalaya. To the

similar effect is the next document which is the character certificate.

Relevant portion of said certificate is reproduced as under:

“ *This is to certify that Mr. Kamaldeep S/o Sh. Tarsem Chand of course in Diploma in Library Science (DLIS) 2 year has been completed. His course during the session of 2010-2012 in **University Campus** has bearing the Registration number is 95596811102063 in first division as a **Regular Student**. He bears a good moral character.*

We wish him for success in future.

Sd/- Dy. Registrar (CMJU)

(emphasis supplied) ”

The counsel for the petitioner has thereafter drawn the attention of this court to the migration certificate given by Registrar of CMJ University Meghalaya on 28th of April 2013, which has again been issued at Shillong. Meaning thereby, the petitioner has conclusively been able to show that he was i) a regular student in CMJ University Meghalaya and ii) did his course from the main campus at Shillong. Consequently, the information supplied by the UGC to the effect that “*diploma in Library and Information Science (Two Year Course) conducted by CMJ University, is valid if the course was conducted in regular mode at the main campus of the University.*”, stands fulfilled by the petitioner. Thus, the action on part of respondent No. 2, to not consider the candidature of the petitioner solely on the ground that he had submitted his academic/professional certificate from a University outside State of Punjab by presuming it to be not legitimate, as per guidelines issued by University Grants Commission,

application of mind and has resulted into violations of principles of Natural Justice.

At this stage, Ld. Counsel for the petitioner has pointed out that as per the result declared by the respondents (**Annexure P-5**), out of 36 posts advertised under the General Category, result has been declared of only 34 candidates and thus, 2 posts of School librarian remained vacant. He has further referred to the information supplied under the RTI Act bearing Memo No. 64946 SRR-17/115-2016 DA(3)/9208 dated 07.12.2016, wherein, it has been informed by the department that five (5) successful candidates namely Ruby Mahajan, Ritu Rani, Deepika Shukla, Sukhwinder Kaur and Virpal Kaur have not joined, as they did not turn up for counseling. Consequently, it is apparent that instead of 6, there are infact 7 posts which are lying vacant at present and have not been filled up. Ld. State Counsel has not been able to dispute this factual position.

Thus, under the peculiar facts and circumstances of this case, this court has no hesitation to hold that the candidature of petitioner was wrongly rejected by respondents no 1 and 2. It is proved beyond doubt that petitioner was meritorious being at serial No. 1 in the merit list (**P-3**) prepared originally by the respondent Department and would have, in any case, come within the selection zone, had his diploma in Library and Information Science been considered as valid. Consequently, the action on part of the respondents for not appointing him to the aforesaid post of School Librarian is bad and therefore set aside. However, keeping in view the fact that this selection pertains to the year 2012 and selected candidates, who have also been arrayed as respondents (but have been proceeded as ex-parte), have been working on the said post since 2015.

Principles of natural justice demand that it would not be apposite to set aside the entire selection list (**Annexure P-5**) and cause prejudice to the selected candidates, and instead it would be appropriate to direct the respondents no 1 and 2 to offer petitioner the job of School Librarian in view of the vacancy available with it.

Thus, present writ petition is partly allowed and respondent Nos. 1 and 2 are directed to offer an appointment letter to petitioner to the post of School Librarian within a period of 4 weeks of receipt of certified copy of the order.

Disposed off accordingly.

(JASWANT SINGH)
JUDGE

March 01, 2017
Vinay

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