

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

1. CWP No. 16189 of 2017

Narender Kumar and othersPetitioners

versus

State of Haryana and ors. ...Respondents

2. CWP No. 16748 of 2017

Surender Singh and othersPetitioner

versus

State of Haryana and ors. ...Respondents

3. CWP No. 17626 of 2017

Mahender SinghPetitioner

versus

State of Haryana and ors. ...Respondents

4. CWP No. 18785 of 2017

Dinesh KumarPetitioner

versus

State of Haryana and ors. ...Respondents

5. CWP No. 28585 of 2017

Niranjan and ors.Petitioners

versus

State of Haryana and ors. ...Respondents

Date of decision : 20.11.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gurminder Singh, Sr. Advocate with
Mr. Pankaj Middha, Advocate
for the petitioners in CWP No. 16189-2017 and 16748-2017

Mr. Anish Batra, Advocate
for the applicant-petitioners in CWP NO. 17626-2017

Mr. Gopal Sharma, Advocate
for the petitioner in CWP No. 18785-2017

Mr. Jagbir Malik, Advocate
for the petitioner in CWP No. 28585-2017

Ms. Palika Monga, DAG Haryana

RITU BAHRI, J. (Oral)

C.M. No. 411-2018 in CWP No. 17626-2017

Application is allowed as prayed for.

Accordingly, the main case is taken up today itself for disposal along with CWP No. 16189-2017 as common question of law involved in both the petitions.

CWP No. 16189-2017 and connected matters.

This order shall dispose of the above five petitions whereby petitioners are seeking quashing of action/list of Elementary School Headmaster (Annexure P-7) meant for transfer driver showing 2414 posts “to be kept vacant” out of total cadre strength of 5586 posts, resulting into not allowing the eligible Elementary School Headmasters to exercise the option against the above 2414 posts.

Learned senior counsel for the petitioners at the very outset submits that the petitioners are Elementary School Headmasters posted in various schools against their name in the array of the petitioners, located in State of Haryana and their grievance is against the transfer drive carried out by the respondents. Learned senior counsel submits that not to allow the petitioners to exercise the option in fair, transparent and independent manner is in violation of the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and Haryana Right of Children to Free and Compulsory Education Rules, 2011.

The petitioners who want to continue on the cadre posts as per transfer policy,

would be forcibly shifted as the posts have been erroneously shown as “ to be kept vacant”.

This Court, vide order dated 06.12.2017 directed the Additional Chief Secretary to Government of Haryana, Department of School Education to file an affidavit. The operative part of the order read as under:-

“That being so, the Additional Chief Secretary to the Government of Haryana, Department of School Education, being the competent transferring authority, (he having issued the order dated 03.08.2017 and other transfer orders also as contended), would file his own affidavit in reply to each paragraph of the writ petition, as also in reply to CM no.15022 of 2017, so as to get the stand of the Government on record, with regard to each and every averment made by the petitioners.

It is made clear that if the detailed written statement to the writ petition and the reply to the aforesaid application are not filed at least 3 days before the next date of hearing, notice having been issued in the main petition way back in July 2017 and in the aforesaid application in October 2017, the Additional Chief Secretary shall remain personally present in the Court on the next date of hearing itself.

In compliance of this order, an affidavit dated 22.01.2018 has been filed by Dr. K.K., Khandelwal, IAS, Addl. Chief Secretary to Government of Haryana, School Education Department and in para 12, it has been stated that the respondents are trying to fill the post of ESHM as per RTE Act, 2009 and the suggestion given by Annexure P-20 will be kept in view before the next transfer drive.

Learned senior counsel for the petitioners contends that the petitioners would be satisfied if the respondents fill the post of ESHM as per RTE Act, 2009 and suggestions given vide Annexure P-20, before the next

transfer drive.

In view of the affidavit filed on 22.01.2018 by Dr. K.K. Khandelwal, IAS, the above mentioned petitions are being disposed of.

November 20, 2018
G Arora

(RITU BAHRI)
JUDGE

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