

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

Date of Decision:-26.09.2018

CWP No.22263 of 2017(O&M)

Ramandeep Kaur.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

AND

CWP No.18179 of 2018

Harvinder Singh & Anr.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Mohit Sadana, Advocate for the Petitioner(s)
(in **CWP No.22263 of 2017**).

Mr. Kanwal Goyal, Advocate &
Ms. Khyati Goyal, Advocate for the Petitioner(s)
(in **CWP No.18179 of 2018**).

Mrs. Anu Chatrath Kapoor, Additional Advocate General,
Punjab.

JASWANT SINGH, J.(ORAL)

This common order shall dispose of the aforesaid two writ
petitions as they have arisen out of similar facts involving identical issues.

Singh and Som Nath and in CWP No.22263 of 2017 petitioner Ramandeep Kaur have acquired the qualification of two years Diploma in Library Information Science sessions 2010-2012. Petitioners Harvinder Singh and Som Nath belongs to general category and Ramandeep Kaur belongs to SC (R &O) category. They competed for appointment to the post of School Librarians with the Department of Secondary Education pursuant to the advertisement dated 03.11.2012 (P-1). 36 posts in the general category and 07 in the SC (R&O) were advertised out of total 72 posts. Harvinder Singh and Som Nath were placed at Merit No.6 and 28 of the combine merit list in general category whereas Ramandeep Kaur would be placed at no.1 in the merit list in her category framed by SSS Board, Punjab. The selection list was issued on 07.02.2014 (P-5). Petitioners however, were not offered appointment letter as their Diploma in Library Science was considered to be invalid.

Learned Counsels for the petitioners have vehemently argued that their candidature has been wrongly rejected on the ground that they possess Diploma Certificate(s) from a University outside the State of Punjab and, therefore, same are not legitimate and valid according to guidelines issued by the University Grants Commission, Government of India. It is stated that the essential requirement for the post in question is 2 years Diploma in Library Science, which they possess from CMJ University, Meghalaya having secured the same in sessions 2010-2012. It is further argued that they have done a regular course from the said university and not by way of Distance Education Mode and, therefore, the condition required for legitimacy of the diploma from the said university as imposed by respondent nos.1 & 2 will not be applicable. It is thus stated the action of

respondent no.2-Subordinate Selection Board, by keeping out the petitioners from the final select list on the ground that their candidature has been cancelled because they have obtained academic/professional certificates from a University out of State of Punjab, is illegal, arbitrary and against principles of natural justice.

It is further argued that officials of respondent no.2 kept on dilly-dallying the matter for recommending their names for appointments despite they being eligible, on the ground that similar issue is pending consideration before this Court. However, despite the fact that now the said matters stand decided, still the respondent no.2 has not recommended their names for appointment and, therefore, present writ petitions have been filed. In support of their claim, they have relied upon the judgments passed by this Court in **CWP No.9398 of 2016** titled as **Kamaldeep Vs. State of Punjab & Ors.** Decided on 01.03.2017 and **CWP No.3607 of 2017** titled as “**Tarun Goyal Vs. State of Punjab and Ors.** Decided on 14.02.2018 (**Annexure P-8 Colly**), whereby on same facts and for the same post, this Court had directed the respondent no.2 to consider the candidature of petitioners therein and offer them appointment letters.

On the other hand, learned State Counsel has argued that the candidature of petitioners was rightly rejected on account of the fact that their diplomas are invalid, in as much as, the Hon'ble Supreme Court as well as Meghalaya High Court, while dealing with the degrees/diplomas given to such candidates for the period of 2010 to 2013 has held the same to be invalid. It is further argued that in any case, present petitions are liable to be dismissed on the ground of delay and laches, as the petitioners are seeking appointment on the basis of a select list prepared on 19.12.2014 (**P-**

6), by filing the writ petition in the year 2018. Hence, it is prayed that the present petitions are liable to be dismissed on this score alone. In support of her contentions, learned State Counsel has relied upon the judgment passed by Meghalaya High Court in WP(C) No.177 of 2014 titled as “**CMJ Foundation & Ors. Vs. State of Meghalaya & Ors.**” decided on 16.7.2015 as well as the interim order dated 12.06.2017 passed by Division Bench of Meghalaya High Court in WA No.14 of 2017 titled as “**State of Meghalaya Vs. CMJ Foundation & Ors**”.

I have heard learned Counsel for the parties at length and have also perused the paper books with their able assistance. However, I am of the view that present petitions are devoid of any merit and same deserves to be dismissed.

Admittedly, respondent no.2-Board published an advertisement no.6 of 2012 for 72 posts of School Librarian on 03.11.2012 and as per the said advertisement, one of the essential qualification was 2 years Diploma in Library Science from any recognized University. It is further not in dispute that after conducting the recruitment test, respondent no.2 published the first merit list on 07.02.2014 (Annexure P-5) whereby names of petitioners were reflected as selected candidates. Thereafter, the respondent no.2 called the successful candidates for verification of documents. After completion of the said process, the final select list was published on 19.12.2014 (Annexure P-6), whereby the names of the candidates did not find mention in the said list of successful candidates. Consequently, it is seen, without going into the merits of the case at all, that in case the petitioners were wronged by any action of respondent no.2-Board, they had a cause of action to come to this Court challenging its action in the year 2014 or maximum in the year 2015

itself. However, the present writ petitions have been preferred in the year 2018 i.e. after a gap of more than 3 years and, therefore, on this ground alone the present writ petitions are liable to be dismissed. The arguments of learned Counsel for the petitioners that officials of respondent no.2 kept on delaying the matter on the pretext that issue regarding validity of their diploma is pending consideration before this Court, cannot be accepted. The petitioners have not been able to show any communication from the officials of respondent-Board to this effect. Infact, the petitioners can be termed as “*fence sitters*”, who waited for the decision of this Court in pending matters and did not dare to approach the court in time. At this stage, when much water has flown through, no relief can be granted to them, as their petitions are highly belated and are thus, barred by principle of delay and laches.

Even otherwise, on merits, this Court finds that the petitioners have no case at all for being considered. A perusal of the judgments relied upon by the learned State Counsel would show that an issue was raised regarding the validity of the diplomas as well as degrees issued by the CMJ University of Meghalaya on various grounds. The said matter reached the Hon'ble Supreme Court and during the pendency of the said petition bearing no.SLP (Civil) No.19617 of 2013, the Hon'ble Governor of Meghalaya State-cum-visitor inspected the premises and gave his report, *inter alia* with the recommendation that all the degrees/diplomas given by CMJ University from 2010 to 2013 be declared as invalid. However, the Hon'ble Supreme Court, on the basis of the said report, directed the State Government to take action under Section 48 of the CMJ University Act, 2009 (for short “the Act 2009”).

Consequently, the State Government initiated action under Section 48 of the Act, 2009 and passed an order declaring the degrees/diplomas of all the candidates secured in the period of 2010 to 2013 as invalid. The said action was challenged by the CMJ University by filing a writ petition bearing no.WP(C) No.177 of 2014 titled as “**CMJ Foundation & Ors. Vs. State of Meghalaya & Ors.**” before the **Meghalaya High Court**. The said writ petition was disposed by the Single Bench of Meghalaya High Court vide order dated 16.07.2015 by holding that the provisions of Section 48 of the Act of 2009 were not strictly complied with and, therefore, the order passed by State Government declaring the Diplomas/Degrees to be invalid, is bad in the eyes of law.

However, the said order was challenged by the State of Meghalaya in an appeal filed before the Division Bench of Meghalaya High Court vide WA No.14 of 2017 titled as “**State of Meghalaya Vs. CMJ Foundation & Ors.**”. In the said appeal, an application for interim stay was filed by the State which was disposed of by the Division Bench vide order dated 21.06.2017, whereby, apart from passing numerous directions, it was held that till the final decision of the said appeal, the order dated 16.07.2015 be kept in abeyance. Meaning thereby, it is said that the Division Bench has in fact upheld the order of State Government to declare the degrees/diplomas of all the candidates secured from 2010 to 2013, as invalid for the time being.

Admittedly, the petitioners have secured their diplomas from the University within this period i.e. 2010-2013. Hence, it can be safely held that the diplomas that petitioners hold, are no longer valid and till the Division Bench of Meghalaya High Court decides the issue, the diplomas

cannot be used for any purpose, including public employment.

In this view of the matter, this Court has no hesitation in holding that the petitioners, even on merits, are not entitled for employment to the post in question, as they are holding invalid diplomas. The judgments passed in *Kamaldeep & Tarun Goyal cases (supra)* cannot come to the aid of petitioners as at that time, it was not brought to the notice of this Court regarding the decisions rendered by the Meghalaya High Court. In any case, Kamaldeep's case was decided on 01.03.2017 when the Division Bench of Meghalaya High Court had not put the order of Single Bench in abeyance. That apart mere selection of a candidate in the select list does not give him/her a absolute and indefeasible right of appointment in government job.

In view of the above, finding no merit, both the aforesaid writ petitions are hereby dismissed.

(JASWANT SINGH)
JUDGE

September 26, 2018
Vinay

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