

CWP No.24967 of 2017

[1]

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

**CWP No.24967 of 2017
Date of decision:25.01.2018**

Gurtej Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. H.C.Arora, Advocate,
for the petitioners.

Mr. H.S.Sitta, AAG, Punjab.

Rakesh Kumar Jain, J.

The petitioners have prayed for the issuance of a writ in the nature of *mandamus*, directing the respondents to pay compensation @ ₹10 lacs each to the petitioners for not conducting the Teachers Eligibility Test (TET) in the year 2017, which is a condition of eligibility for recruitment to the post of Teachers in the State of Punjab and, thus, were deprived of the chance to acquire the aforesaid eligibility.

Counsel for the petitioners has submitted that the qualification for appointment and terms and conditions of service of Teacher is provided in Section 23(1) of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as "Act"). It is further submitted that the Central Government, vide notification dated 31.03.2010, has appointed the National Council for Teachers Education (hereinafter referred to as the "NCTE") as academic authority to lay down the minimum qualifications for the persons to be eligible for appointment as a teacher and in pursuance thereof, the NCTE, vide circular dated 11.02.2011, issued relevant guidelines, directing all the State Councils for conducting the Teachers Eligibility Test (TET). It is

submitted that as per Clause 11 of the said guidelines, the appropriate Government is required to hold TET at least once in every year. It is submitted that since the TET is the qualifying test for a person to apply for the post of teacher and the respondents did not hold the TET in the year 2017, therefore, the petitioners have been deprived of the opportunity to apply for the post of teacher and hence, they have prayed for the compensation. The petitioners have given the details in regard to the TET held year-wise. The said detail is as under:-

<i>Calendar Year</i>	<i>Date of holding of PSTET</i>
2011	03.07.2011 (after intervention by this Hon'ble Court)
2012	09.06.2013 (
2013	28.12.2013 (after intervention by this Hon'ble Court)
2014	14.08.2014
2015	13.12.2015 (last date for submission of applications for recruitment to various posts was extended under directions from this Hon'ble Court)
2016	25.09.2016
2017	No date fixed yet.

At the time of preliminary hearing, the Court did not issue notice rather the respondents were asked to assist the Court after they were provided a copy of the writ petition. The respondents have filed affidavit of Karamjit Singh, Deputy Director, Education Recruitment Directorate, Department of School Education, Punjab, in which the following averments have been made:-

“2. That in this regard it is submitted that Department of School Education invited online submission of applications for recruitment for the 3582 posts in Punjabi, Hindi, Mathematics, Science and Social Studies subjects vide different advertisements dated 10.09.2017. That it was specifically mentioned in advertisements:-

“Apart from the Educational qualifications for the

posts of Master/Mistress, the candidates should have passed Punjab State Teacher Eligibility Test-2 (P.S.T.E.T.-2) conducted by the Government of Punjab under R.T.E. Act.”

3. That as per Guidelines dated 11.02.2011 issued by the National Council of Teacher Education under the above said R.T.E. Act, 2009 Act (Annexure P2), one of the minimum qualification for person to be eligible for appointment as a Teacher is to pass Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE for the purpose. It would also be appropriate to indicate here that as per the guidelines circulated by the N.C.T.E. vide its circular (Annexure P-2) dated 11.02.2011, it is not mandatory for the State Government to conduct TET once every year as averred by the petitioner as is apparent from the language of the relevant clause-11 of the circular dated 11.02.2011 (Annexure P-2), it appears to be directory in nature.
4. That it is further clarified that State of Punjab is conducting the P.S.T.E.T. Regularly since 2011. Hence, sufficient number of P.S.T.E.T.-2 qualified candidates are available to apply in pursuance to various advertisements dated 10.09.2017. That the posts in the department are advertised as and when they fall vacant and are not concerned with the conduct of P.S.T.E.T. in a particular year. The department cannot hold back the recruitment process till the passing of the abovesaid test by the petitioners.
5. That various facts and figures, in support of the above submissions, indicating the number of applicants against the advertised posts are being reproduced as hereunder for the kind perusal of this Hon'ble Court:-

Advertisements dated 10.09.2017

Sr. No.	Subject	No. of advertised posts	No. of applicants
1	Math	739	4575
2	Science	1138	3817
3	Punjabi	398	4017
4	Social Studies	393	6208
5	Hindi	521	1946
6	English	393	1758
Total		3582	22321

It is further submitted that the advertisement for conducting the TET has been issued and online registration process had started on 19.12.2017, completed on 26.12.2017 and the test would be held on 11.02.2018.

Counsel for the petitioners, in order to claim compensation, has relied upon a decision of the Division Bench of this Court rendered in the case of **Yudhansu Angural vs. Baba Farid University of Health Sciences Faridkot and others**, 2017(4) PLR 777.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is no merit in this petition insofar as the award of compensation is concerned and even the judgment relied upon by the petitioners in **Yudhansu Angural's case (supra)** is also not applicable to the facts of this case. The respondents have initiated the process for holding the TET w.e.f. 19.12.2017 and has also given cogent reasons in their affidavit. Therefore, the prayer made by the petitioners for grant of compensation is hereby declined. However, before parting with the order, it is relevant to add that in order to avoid repetition of this kind of writ petition(s), the respondents are directed to hold the TET every year in time, in accordance of the relevant provisions of the Act(s) and the Rules(s).

Consequently, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

January 25, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No