

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

**Civil Writ Petition No. 24940 of 2018 (O&M)
Date of Decision: 02.11.2018**

Arun Thakur and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ravi Sharma, Advocate
for the petitioners.

Mrs. Anu Chatrath Kapur, Additional Advocate General, Punjab
for the respondents/State and **assisted by**
Ms. Jasleen Kaur Sandhu, Secretary, Punjab Public
Service Commission, Patiala.

JASWANT SINGH, J.

CM No. 16867-CWP of 2018

Present application under Section 151 of CPC moved by counsel for applicants-petitioners is for placing on record the rejoinder to counter affidavit.

Application duly supported by affidavit of petitioner No. 1 is **allowed**. Rejoinder is taken on record.

MAIN CASE

1. Instant petition under Article 226 & 227 of the Constitution of India has been filed seeking quashing of advertisement dated 21.03.2018 **(Annexure P-7)** and subsequent proceedings on the ground being in contravention of the Punjab State Civil Services (Appointment by Combined Competitive Examination) Rules, 2009 (for short 'Rules').

2. Respondent No. 2-Punjab Public Service Commission which has been established under Article 315 of the Constitution of India, vide advertisement No. 4 dated 21.03.2018 (P-7) invited online applications forms from eligible candidates for the recruitment to 67 posts to be filled through Punjab State Civil Services Combined Competitive Examination-2018. As per condition No. 2 of the advertisement, which is based upon proviso to Rule 4(1) of the Rules, candidate studying for his degree may take preliminary exam subject to produce proof of passing the degree course to take the main examination. Last date for filing online application was 23/04/2018 and last date for depositing fee 30/04/2018.

3. Pursuant to aforesaid advertisement, various candidates applied and appeared in the preliminary examination, however, petitioners did not apply because petitioner Nos. 2 to 4 secured their degree in July' 2018 and petitioner No. 1 though secured degree in July' 2017 but became eligible to apply under Sports Category in July' 2018.

4. Counsel for the petitioners contended that respondents were bound to advertise posts as per prescribed time schedule and impugned advertisement has been issued in gross deviation of Rules, therefore, entire process should be quashed and respondents be directed to issue fresh advertisement.

5. Per contra, learned State Counsel contended that result of preliminary exam has already been declared and petitioners in view of proviso to Rule 4 (1) of the Rules were very well eligible to apply, however failed to apply and at this stage cannot seek quashing of entire process. She further contended that process was initiated in 2017 which culminated into impugned advertisement in 2018. Delay in conducting exam of 2017 has

occurred due to delay in submission of information to the department of personnel by different departments.

6. The conceded position is that the petitioners obtained minimum education qualification in 2017 or 2018 and were eligible to apply & appear in the exam conducted by respondent. The petitioners on their own did not apply for the preliminary exam. As per Rules, a candidate may take preliminary examination while studying for his degree provided the said candidate shall produce proof of passing the degree for being eligible to take the final examination. Petitioner No. 1 obtained degree in 2017, however, he became eligible to be considered under sports category in July' 2018.

7. Having scrutinized record of the case and after hearing arguments of both the counsels, this Court finds that present petition is bereft of merits and deserves to be dismissed. The petitioners have no vested right to appear in exam in question. The petitioners obtained degree prior to prescribed time and accordingly could apply for the test, however, they opted not to appear in the preliminary examination. The petitioners did not apply and opted to remain silent at the time of advertisement as well as preliminary examination. By not applying for the test even though eligible, they acquiesced and have no *locus standi* at this stage to challenge the entire exam on the ground of deviation from some prescribed procedure which is made to achieve the main object. The object of Rules is to conduct examination in fair and reasonable and timely manner and select most suitable candidates. The time schedule no doubt has been prescribed for the sake of clarity and makes candidates as well as authorities aware about it,

but it does not mean that entire exam can be struck down on the ground of

minor variation in time table especially when there is no allegation of *mala fide* on the part of particular officer or authority. The petitioners could apply but opted to abstain and cannot seek to quash entire process which would cause unwanted loss and harassment to government as well as public at large. The respondent is not bound to conduct exam every year which depends upon requisition received from different departments. In the absence of proper requisition exam may not be conducted. In the present case, process started in the month of August' 2016, however, due to absence of proper requisition from all the departments concerned, matter could be finalized in January' 2018 which means no exam was conducted in 2017 and this could happen in 2018 also. Had exam been conducted in 2017, the petitioners would have no grievance. It shows that conducting of exam depends upon proper requisition which may not accrue in one or another particular year.

The petitioners are challenging advertisement and subsequent process whereas result of preliminary exam has already been declared. There seems no cause of action at this stage to challenge the advertisement and subsequent exam especially when petitioners inspite of being eligible did not apply.

In view of aforesaid findings, this court does not find any merit in the present petition and accordingly petition is “**Dismissed**”.

November 02, 2018

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**(JASWANT SINGH)
JUDGE**

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