

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Letters Patent Appeal No.1030 of 2017(O&M)
Date of Decision: August 06, 2018

Narinder Saini and othersAppellants

versus

The State of Punjab and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.R.K.Chopra, Senior Advocate with
Mr.Gaurav Sharma, Advocate, for the appellants.
Ms.Anu Chatrath, Senior Advocate with
Mr.S.K.Sharma, Advocate,
Mr.Baljinder Singh, Advocate, for the respondents.

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Surya Kant, J. (Oral)

The instant intra-court appeal is directed against an interlocutory order dated 26.05.2017 vide which the learned Single Judge has vacated the stay in respect of appointment to the posts of PTI/B.PEDs. The said order is self-explanatory and cites the case-law as well as reasons. It may be mentioned here that the posts of PTIs were advertised way back in October 2006. The advertisement, in so many words, recited that the 'percentage' in the matter of appointment between 'men' and 'women' would be 50:50. The appellants are female candidates and contesting respondents are male candidates. Both categories are in the selection list though placed at different places.

It is also true that this Court in Neelam Rani versus State of Punjab and others (CWP No.12275 of 2000), decided on 08.01.2010, has opined that there can be reservation for 'women' but no such reservation is permissible under the Constitution for male. Resultantly, 50% posts would go to women and remaining 50% are to be filled up strictly on merits, irrespective of the gender of the candidate. The said judgment is now sub-

judice before the Hon'ble Supreme Court. It is in this backdrop that the

learned Single Judge has vacated the stay, leaving it open for the State Government to make arrangements as per the percentage mentioned in the advertisement dated 1st of October, 2006 (P-1).

It appears to us that as an interim measure and to ensure that the students do not suffer for want of sufficient teachers, let 50% posts of PTI/B.PEDs be filled up from amongst the female candidates in order of merit and remaining 50% in accordance with joint merit. However, the appointments shall be purely provisional and as an adhoc measure till the issue is finally decided by the Hon'ble Supreme Court in Neelam Rani's case (supra). It is made clear that if some of the female candidates would be required to vacate their posts on settlement of the legal principles, equitable right shall accrue in their favour by virtue of these adhoc appointments. Similarly, these conditions shall equally apply to male candidates also.

We request the learned Single Judge to decide the main case out of which this appeal has originated, preferably on the date fixed. We also request learned counsel for the parties to co-operate with the learned Single Judge in deciding the case.

This order, however, shall not be taken as expression of opinion on the merits of the pending case and the parties shall be well within their right to raise all the contentions before the learned Single Judge.

Disposed of in above terms.

[SURYA KANT]
JUDGE

August 06, 2018
mohinder

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No