

**CWP Nos.13261, 13831, 13786 &
13796 of 2018 (O&M)**

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

Date of decision : 18.10.2019

1.

CWP-13261-2018 (O&M)

Pardeep

... Petitioner

Versus

State of Haryana and others

... Respondents

2.

CWP-13831-2018 (O&M)

Raman Deep

... Petitioner

Versus

State of Haryana and others

... Respondents

3.

CWP-13786-2018 (O&M)

Sanjeev Kumar

... Petitioner

Versus

State of Haryana and another

... Respondents

4.

CWP-13796-2018 (O&M)

Partap

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Madan Pal, Advocate
for the petitioner(s).

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Mr. Harish Nain, AAG, Haryana.

Mr. Sunil K. Nehra, Advocate
for respondent No.3 in CWP-13261-2018.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of four writ petitions bearing **CWP No.13261 of 2018** titled as **“Pardeep V/s State of Haryana and others”**, **CWP No.13831 of 2018** titled as **“Raman Deep V/s State of Haryana and others”**, **CWP No.13786 of 2018** titled as **“Sanjeev Kumar V/s State of Haryana and another”** and **CWP No.13796 of 2018** titled as **“Partap V/s State of Haryana and others”** as issue and question raised in the aforementioned writ petitions are same. For the sake of convenience, the facts are being taken from CWP No.13261 of 2018.

The controversy involved, in the petitions, in narrow compass is that in respect of selection process for the post of Agriculture Development Officer (ADO), fixing the qualification of B.Sc. (Honours) in Agriculture, final selection list was prepared on 23.07.2012, whereby candidature of certain eligible aspirants, of not holding B.Sc. (Hons.) in Agriculture was cancelled. The matter reached upto this Court in various writ petitions and this Court, vide order dated 09.10.2013, dismissed the writ petitions, resulting into, filing of various Letters Patent Appeals. When the matter was pending before LPA Bench, vide order dated 17.11.2014 in LPA No.1638 of 2014, this Court, while taking into consideration the pendency of other LPAs, directed the State Government to constitute Expert Committee. Said Committee submitted its report to the Government.

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Additional Chief Secretary to Government of Haryana, Agriculture Department, Haryana, Chandigarh, vide communication dated 20.10.2015 (Annexure P-7), notified to the Director, Agriculture Department, Haryana, for apprising this Court that Degree of B.Sc. Agriculture, from recognized University, was accepted as a qualification for appointment to the post of Agriculture Development Officer. On the basis of the aforesaid affidavit, LPAs were disposed of, vide order dated 30.10.2015 (Annexure P-8).

Mr. Madan Pal, learned counsel appearing on behalf of the petitioner(s) submitted that the State/respondent(s) has chosen to file review application, which was, ultimately, dismissed, vide order dated 05.05.2017 (Annexure P-10). Petitioner submitted the representation dated 14.06.2017 (Annexure P-19), but the respondents, vide impugned order dated 09.03.2018 (Annexure P-21), rejected the case of the petitioner, on the ground of delay and laches, by holding that petitioner is holding B.Sc. Agriculture and not B.Sc. (Hons.) in Agriculture, therefore, did not fulfil the requisite qualification.

It is next contended that such decision is not only contemptuous, but deliberate attempt to thwart the claim of petitioners, thus, urges this Court for allowing the writ petitions with exemplary costs.

Per contra, Mr. Harish Nain, AAG, Haryana, representing the State and Mr. Sunil K. Nehra, learned counsel appearing on behalf of respondent No.3 in CWP-13261 of 2018, submitted that the petitioners have not given any explanation of delay of five years, in not approaching the Court, but waited for the decision of Letters Patent Appeal and therefore,

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cannot take the benefit of some decision in favour of other candidates. Impugned order is on account of non-holding of the requisite qualification of B.Sc. (Hons.) in Agriculture, but as well as on delay and laches, thus, urges this Court for dismissal of the writ petitions.

As regards the maintainability of writ petitions bearing CWP Nos.13786 and 13796 of 2018, Mr. Nain, submitted that the petitioners filed the writ petition in the year 2013, which were dismissed and Letters Patent Appeal, was filed after four years i.e. in the year 2017 and therefore, cannot stake their claim belatedly.

As far as objection of the State regarding maintainability of the writ petitions is concerned, Mr. Madan Pal, rebutted that against the order of dismissal of the writ petition in the year 2013, petitioners preferred the letters patent appeals bearing LPA No.937 and 2257 of 2017 with application seeking condonation of delay. During the pendency of LPAs, petitioners submitted a representation, but since there was no adherence thereto, filed the writ petition, resulting into, passing of the impugned order, thus, there was hardly any delay.

I have heard learned counsel for the parties and appraised the paper book.

On perusal of the affidavit coupled with the order dated 30.10.2015, of this Court, I am of the view that the State could not have rejected the case of petitioners in not procuring requisite qualification, which *prima facie* amounts to overreaching the order of the Court as appeals *ibid*, were disposed of with a direction to the Government to take necessary action, in accordance with the decision and that order, in my

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view, is enuring benefit to all selected candidates, even if, they had not come to the Court. For the sake of brevity, the relevant portion of order dated 30.10.2015 passed in LPA No.1638 of 2014, reads as under:-

"In pursuance of the said order, the Experts Committee has submitted its report to the Government to the effect that both the Degrees are equivalent. The Government has accepted the said report and today an affidavit of the Joint Director (Administration), Directorate of Agriculture, Haryana, Panchkula, has been filed in court. Para 2 of the affidavit reads as under:

"That in view of the above said observation of this Hon'ble High Court, the Government has taken a decision after taking a report from Association of Indian Universities (AIU) and Indian Council of Agriculture Research (ICAR) that B.Sc. Agriculture degrees awarded by other States Agricultural Universities/Agricultural Colleges affiliated with UGC/ approved by ICAR are equivalent to the degree of B.Sc. Agriculture (Honours) awarded by CCS HAU, Hisar. The letter dated 20.10.2015 issued by Additional Chief Secretary to Govt. of Haryana Agriculture Department to the Director of Agriculture, Haryana, Panchkula. In the present case appellants are found eligible for appointment on the post of Agriculture Development Officer (Admn. Cadre) on the basis of above said report which is accepted by the Government. The copy of the letter for kind perusal of this Hon'ble High Court is annexed as Annexure R-1."

In view of the aforesaid affidavit and the decision taken by the Government on the report of the Experts Committee, the appellants have been found eligible for appointment to the post of Agriculture Development Officer (Administration Cadre).

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Consequently, these appeals are disposed of with a direction to the respondent Government to take necessary action in accordance with the aforesaid decision".

Once the Expert Committee already found the degree of B.Sc. Agriculture without Honours, to be requisite qualification for purpose of appointment to the post of Agricultural Development Officer, respondents should have, in the first instance, when the representation was made, taken the decision, though it compelled the petitioner to approach this Court for the appropriate directions, resulting into, passing of the impugned order. I am of the view that it is a fit case, where some kind of costs, are liable to be imposed. At this stage, Mr. Harish Nain, AAG, Haryana, submits that the costs may not be imposed as it was comprehension of the Director, who interpreted the order in different way for redressal of grievance of petitioners. Accordingly, while accepting submission of Mr. Nain, this Court do not intend to delve qua imposition of costs.

As far as the objection of Mr. Nain, qua maintainability of writ petitions bearing CWP Nos.13786 and 13796 of 2018 is concerned, I am of the view that against the dismissal of writ petitions, petitioners preferred LPA Nos.937 and 2257 of 2017, but during their pendency, noticing the fact that State Government had already taken a conscious decision, in view of the receipt of report of the Expert Committee by filing the affidavit in the letters patent appeal bearing No.1638 of 2014 and on the basis of the same and decision taken by the Government, were disposed of, were not pressed and sought the liberty to challenge the decision of the Government. For the sake of brevity, relevant portion of the order dated 05.09.2018 of letters patent appeal reads thus:-

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"Learned Counsel for the appellants state that during the pendency of the present appeals, the State has taken a decision, adverse to them, which has given them a fresh cause of action and, therefore, pray for permission to dismiss the instant appeals as not pressed with liberty to challenge the decision taken by the State Government.

Permitted to do so.

Dismissed as not pressed with liberty aforesaid granted."

In view of liberty, objection of Mr. Nain, qua maintainability of the writ petitions bearing Nos. 13786 and 13796 of 2018, is not sustainable. As far reasoning assigned for rejection of case of petitioners is concerned, I am of the view that once the Committee and the Government already filed the affidavit with regard to recognizing the the degree of B.Sc. Agriculture, for the post of Agriculture Development Officer, the Director, could not have deviated from the decision.

Keeping in view the aforementioned facts, the impugned orders, under challenge, are not sustainable as they suffer from illegality and fallacy, accordingly, the same are hereby set aside. Resultantly, the writ petitions are allowed.

18.10.2019
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

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