

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

CWP-15074-2017 (O & M)

Date of decision: 21.02.2019

Gurpreet Singh and anr.

.... Petitioners

V/s

State of Punjab and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Hari Chand, Advocate, for the petitioners.

Mr. Nikhil Chopra, Addl.A.G., Punjab.

Rajan Gupta, J. (Oral)

Petitioners have prayed for a writ in the nature of mandamus to direct the respondents to issue appointment letters to the petitioners as D.P.E. Masters as other candidates in the waiting list in other categories were given the same benefit. They rely upon a judgment passed by this court in a case titled as 'Venus versus State of Punjab and another, CWP-20148-2012 dated October 25, 2013, Annexure P-10.

A detailed reply by way of affidavit of Lalit Kishore, Assistant Director, Office of Director, Public Instruction (SE), Punjab, SAS Nagar, has already been filed on behalf of respondents No.1 and 2. Referring to Para 02 thereof, Mr. Chopra submits that petitioners do not fall in the zone of consideration. They have, thus, not been considered for appointment.

As regards the waiting list, stand of the State is that no legal right accrues to the candidates for appointment. It is a settled law that candidate cannot claim appointment as a matter of right. Learned State counsel relies upon a judgment of Apex Court in the case titled as

candidate whose name appears in the merit list do not acquire indefeasible right of appointment and the State is under no legal duty to fill up all the vacancies. The question whether candidates whose names are included in the waiting list are entitled to be appointed against the unfilled posts as of right is no longer res integra and must be answered in negative (see judgment rendered in a case of 'Union of India versus Ishwar Singh Khatri 1992 Supp. (3) SCC 84, Gujarat State Dy. Executive Engineers' Association versus State of Gujarat and others 1994 Supp (2) SCC 591). Besides, the question of unused vacancies no longer has relevance as admittedly, the posts, which remained unfilled, have been advertised again and petitioners are also one of the applicants.

Under the circumstances, no case for interference in the writ jurisdiction is made out. Dismissed.

February 21, 2019
sukhpreet

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No