

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

**CWP No.20060 of 2019
Date of decision:23.07.2019**

Mona and another

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Shalender Mohan, Advocate
for the petitioners.

AMIT RAWAL J.

Petitioners two in number have sought quashing of notice dated 18.07.2019 (Annexure P-6) issued by respondent no.2-Director Elementary Education Haryana, Shiksha Sadan inviting online applications for implementation of cadre change policy 2018.

Learned counsel appearing on behalf of petitioners submitted that petitioners were appointed as JBT Teacher in 2004 and 2011 and continued to discharge their duties on regular basis at the places mentioned in para nos. 2 and 3 of writ petition. Petitioner no.1 at present is working at Hisar whereas petitioner no.2 in Panchkula.

On 15.2.2019, respondent no.2 came out with a notice indicating steps to receive the application on portal qualifying eligibility of persons to opt for the same. The aforementioned notice was in fact in terms of cadre change policy for district cadre dated 06.09.2018 which was

amended vide notification dated 16.10.2018 (Annexure P-3). The petitioners submitted online portal but in litigation reached to this Court and the Director, Elementary Education, Haryana gave an affidavit for retaining at the place already posted, one option will be accepted. After the decision of aforementioned petition, vide notice dated 16.7.2019 (Annexure P-5) following guidelines were taken out for implementation of online cadre change policy:-

- “1. Only regular JBT/PRT teachers who have been appointed before 2017 and have completed three years of service shall be eligible to fill up choices of maximum 22 districts including their own district.*
- 2. At least 5 year stay is necessary for applicants who are posted in Mewat district and opted for district change to other than Mewat.”*

but to utter surprise of petitioners, two days thereafter, another notice dated 18.7.2019 (Annexure P-6) was issued vide which guidelines have been changed in the following manner:-

- “1. Only regular JBT/PRT teachers who have completed three years of service shall be eligible to fill up choices of minimum 22 districts including their own district.*
- 2. Only regular JBT/PRT teachers who have already exercised their options for less than 22 districts are hereby directed to revisit their choices either to fill all 22 districts or withdraw their choice of participating in the reallocation of*

District Cadre Change Drive..”

Instead of maximum 22 districts, it has been mentioned as minimum 22 districts. The aforementioned act is totally arbitrary and violative of Articles 14 and 16 of Constitution of India. There is no condition of mutual transfer. Both petitioners are willing to have transfer vice-versa on mutual basis but aforementioned notice in the policy deprived many teachers for not availing said benefit as per their choice. In fact, petitioners wanted to fill only one district i.e. Panchkula but portal is not accepting, therefore, cause of action accrued to file writ petition. In fact, by incorporating 22 options every choice has been taken away from the employees and thus, urged this Court for setting aside the impugned notice.

I have heard learned counsel for petitioners, appraised paper book and of view that there is no force and merit in submissions of Mr. Mohan.

The apprehension expressed is totally far-fetched. On perusal of both the guidelines extracted above, it is revealed that earlier notice was only with regard to teachers having been appointed before 2017 and completed three years service. Liberty was granted to fill up choices of maximum 22 districts including their home district with the mandate of 5 years stay for the applicants who were posted in Mewat District but period 2017 has been deleted and condition of 3 years of service with minimum 22 districts has been retained. Such situation cannot be said to be onerous as all the affected persons would have choices of 22 districts including their home district and option has been given to those persons who have already availed

option as per notice dated 16.07.2019.

I am of the view that exercise undertaken is comprehensive and in the interest of State to avoid the element of biasness and pick and choose policy particularly for those persons who have been working in the district of their own choice. Such decision making of policy is not found to be irrational and fallacious. The grievance expressed is devoid of merit.

Dismissed.

(AMIT RAWAL)
JUDGE

July 23, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No