

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

**CWP No.25473 of 2018
Date of decision:15.10.2019**

Dinesh Kumar and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anurag Goyal, Advocate
for the petitioners.

Mr. Kiran Pal Singh, AAG, Haryana.

AMIT RAWAL J. (Oral)

Grievance of the petitioners in short is that vide order dated 26.07.2018 (Annexure P-2), they have been promoted as Head Teachers. Promotion was in consonance with Appendix B of the notification dated 11.04.2012 (Annexure P-5) but without assigning any reasons or issuing show cause notice, their promotion order has been withdrawn vide order dated 19.09.2018 (Annexure P-6) without adherence to the principles of natural justice. Even the stand taken in written statement does not support case of the respondents for the simple reason that all the petitioners have been promoted and as per letter dated 25.04.2018, (Annexure R-1), there are chances of promotion.

Per contra, Mr. Kiran Pal Singh, learned Assistant Advocate General, Haryana submits that necessity for reverting the petitioners was on

account of communication dated 09.08.2018 issued by the Director Elementary Education Haryana, Panchkula wherein certain new conditions were imposed. The promotion has to be made as per seniority; Recruitment Rules 2012 and reservation policy issued by the Government from time to time.

I have heard learned counsel for the parties and appraised paper book. Operative part of letter dated 25.04.2018 (Annexure R-1) relied upon by the respondents reads as under:-

“As evident from above table, number of presently working Head Teachers in 10 districts (i.e.Ambala, Bhiwani, Fatehabad, Jind, Kaithal, Kurukshetra, Mahendergarh, Rewari, Sirsa and Yamunanagar) are more than required as per RTE norms, hence there is no vacancy of Head Teachers in these districts. However, in rest of 11 districts (i.e. Faridabad, Gurugram, Hisar, Jhajjar, Karnal, Nuh, Mewat, Palwal, Panchkula, Panipat, Rohtak and Sonipat) there is no scope for promotion from PRT teachers to the post of Head Teachers.”

From the perusal of the same, Director, Elementary Education Officer found that reasoning assigned is not in tandem with the stand taken regarding promotion by taking into consideration the seniority and Recruitment Rules 2012 but on account of excess availability of Head Teachers.

As far as other districts are concerned like Ambala, Bhiwani, Fatehabad, Jind, Kaithal, Kurukshetra, Mahendergarh, Rewari, Sirsa and

Yamunanagar, there is no vacancy of Head Teachers.

I am of the view that impugned order has taken away the valuable right of the petitioners which was accrued by way of promotion and cannot be taken by grinding axe on their head without adherence to principles of natural justice. The impugned order, in such circumstances, cannot be said to be reasonable while exercising the power of judicial review. The remedy for the State is to take action in accordance with law, in case, promotion is not done as per the prevailing bye-laws and rules.

Writ petition stands allowed.

(AMIT RAWAL)
JUDGE

October 15, 2019
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No