

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

**LPA No. 496 of 2020 (O&M)
Date of decision: 13.8.2020**

Nirmaljit Kaur

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Gurjinder Singh Chahal, Advocate, for the appellant.

ARUN PALLI, J. (ORAL)

The matter is being taken up and heard by video conferencing owing to the prevailing Pandemic (COVID-19).

This is an intra-court appeal, under Clause X of the Letters Patent, against a judgment and order dated 6.3.2020, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed for it suffered from delay and laches.

A brief narration of facts that have led the appellant to the current stage shall be expedient and necessary.

Pursuant to an advertisement issued by the Department of Education, Punjab, in the year 2001, applications were invited to fill up the vacancies of teacher in various categories. The petitioner competed for selection against the post of Art and Craft Teacher. Though, she remained unsuccessful. Being aggrieved with the way the selections were carried out, the petitioners, along with other unsuccessful candidates, complained to the Lokpal, Punjab. An enquiry, in terms of Section 13(1) of the Lok Pal Act,

1996, ('the Act', for short), was conducted against the members of Departmental Selection Committee, including the then Education Minister. Upon examining the records and consideration of the matter, the Lok Pal reached a conclusion that the selections were carried out in a pick and choose manner and the merit was ignored. Even the constitution of the Selection Committee was illegal. Accordingly, the Lok Pal, vide his report dated 3.6.2008, recommended that the State Government shall constitute a fresh Selection Committee. And the candidates, who despite being meritorious were rejected, would be re-interviewed, in terms of the criteria set out in the report and if found suitable, would be offered appointments against the existing vacancies and in case, no such vacancy exists, they would be afforded appointments against future vacancies. Further, vide order dated 26.6.2008 (Annexure P-1), the said recommendations were accepted by the then Governor, under Section 16(2) of the Act. Whereafter, vide letter dated 30.9.2009, issued by the Office of Director, Education Department (Secondary Education), Punjab, the appellant was required to report for counselling on 9.10.2009. Post counselling, the appellant was informed that her case was being sent to the Secretary, Education, for approval, whereafter appointment letter shall be issued to her. However, no appointment letter followed. In the similar circumstances, some of the candidates, namely Ramandeep Sharma, and Harvinder Singh and others, approached this Court, vide separate writ petitions, which were disposed of by this Court on 27.1.2011 and 5.7.2012, respectively, requiring the respondent authorities to consider their claims for appointment, pursuant to the directions issued by the Lok Pal. And, now, after almost a decade, the appellant has received a

letter dated 22.10.2019, issued by the Director, Education, appended therewith an order dated 15.3.2013, vide which claim of the appellant for appointment has since been declined. This is how, as indicated above, the appellant filed a writ petition, impugning the order dated 15.3.2013 (Annexure P-8) and letter dated 22.10.2019 (Annexure P-9), as also prayed for a Mandamus commanding the respondents to appoint her as Art and Craft Teacher.

We have heard learned counsel for the appellant and perused the records.

Ex facie, claim of the appellant for appointment is centered upon the recommendations and report of the Lok Pal, dated 3.6.2008, which was even accepted by the then Governor of Punjab on 26.6.2008. However, by a conscious and comprehensive decision, the Government, vide order dated 15.3.2013, expressed its inability to accept those recommendations, for even otherwise those were merely recommendatory in nature. Consequently, claim of the candidates (complainants) for appointment to the post of Art and Craft Teacher was declined. Thus, we wonder as to how, in the wake of the decision of the Government dated 15.3.2013, the claim of appellant would even be feasible. Undoubtedly, the appellant had formally prayed for setting aside the order dated 15.3.2013 (Annexure P-8). But an analysis of the averments set out in the writ petition would show that no challenge is laid thereto. How the said order is unsustainable or the grounds upon which it is required to be set aside have not been stated either. Be that as it may, adverting to the order that is being assailed, the short ground upon which the learned Single Judge dismissed the writ petition was: it suffered

from gross, inordinate and unexplained delay. We may also point out that the Government, upon consideration of the report submitted by the Lok Pal, passed a formal order as back as on 15.3.2013, expressing its inability to accept his recommendations. Whereas the appellant approached this Court seven years later in March, 2020. The claim of the appellant that she was conveyed the decision/order dated 15.3.2013, vide letter dated 22.10.2019, would also not advance her claim. The decision of the Government, dated 15.3.2013, was in public domain. In the given circumstances, the presumption that permeates the record is that the appellant, who was scrupulously pursuing her claim, was conscious of the said decision. Rather, it appears that post decision of the Government dated 15.3.2013, and rejection of her claim as also of the other similarly situated candidates seeking appointment, she reconciled therewith. The representation dated 12.11.2011 (Annexure P-4), which she alleged to have submitted to the Principal Secretary (Department of School Education), to show that she was constantly pursuing her claim, rather reveals that it was submitted by one Randhir Kaur, daughter of late Darshan Singh and not by the petitioner. Thus, the claim sought to be made by the appellant is not only stale and speculative but also lacks bonafides.

In the wake of the above, we are dissuaded to interfere with the impugned judgment and order rendered by the learned Single Judge.

The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

August 13, 2020
AK Sharma

Whether speaking / reasoned:
Whether Reportable:

YES
NO
AMIT KUMAR
2020.09.07 18:03
I attest to the accuracy and
authenticity of this document