

***LPA No.2312 of 2016(O&M) in
CWP No.21827 of 2016***

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

LPA No.2312 of 2016(O&M) in

CWP No.21827 of 2016

Date of Decision:-20.01.2020

Jayawathi.

.....Appellant.

Verus

State of Haryana & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. S.S. Sahu, Advocate for the Appellant.

Ms. Shruti Jain Goyal, Deputy Advocate General,
Haryana.

Mr. Teevar Sharma, Advocate for Respondent No.4.

JASWANT SINGH, J.

Appellant- Jayawathi has filed in the instant intra-court appeal under Clause X of the Letters Patent seeking quashing of impugned judgment dated 21.10.2016 passed by Ld. Single Judge, whereby her writ petition has been dismissed *in-limine*, primarily on delay and laches, as appellant had filed the writ petition after a gap of more than 2 years.

Ld. Counsel for the appellant has argued that she is a

meritorious candidate who has been rejected on account of non-production of Diploma in Education (D.Ed) certificate, which as a matter of fact was submitted by her at the time of interview. It is argued that appellant has categorically made an averment in her writ petition that she had submitted her Diploma in Education (D.Ed) at the time of interview to the interviewing committee, which fact has wrongly not considered by the Ld. Single Judge while dismissing the writ petition. Thus, prayer has been made for allowing the instant appeal.

On the other hand, Ld. State Counsel has referred to an affidavit dated 16.01.2019 sworn by Shri Rajeev Dudeja, Secretary (Legal), Haryana Staff Selection Commission, whereby he has deposed that the candidature of appellant was rejected on account of non-production of D.Ed Certificate and this fact is in the knowledge of appellant at the time of interview itself, as she has signed the attendance sheet whereby this fact has been noted. It is further deposed in the affidavit that appellant was informed separately about the reason for her rejection vide letter dated 26.09.2013 (**R-3/2**), which has not been reverted by appellant till date. Thus, on the basis of deposition made by Secretary (Legal), Ld. State Counsel for prayed for dismissal of the instant appeal.

After hearing Ld. Counsel for the parties at length and upon scrutinizing the paper book with their able assistance, we are of the opinion that instant appeal is without any merit.

It is apparent from the affidavit dated 16.01.2019 filed by

Secretary (Legal) that the appellant was informed at the time of interview itself about her disqualification as she had not brought her D.Ed certificate. This fact is clear from the attendance sheet dated 8.4.2013 Annexure R-3/1 wherein it is mentioned under “Remarks” column that “D.Ed required”. Right next to this column, appellant has appended her signatures, which are not disputed.

Not only this, in the ordinary course of business, appellant was sent a letter dated 26.09.2013 (R-3/2) whereby Secretary, Haryana School Teacher Selection Board has informed appellant about the reason of her rejection i.e non production of D.Ed Marksheet. As per this letter she was also informed about her right, which is to the following effect:

“ If you wish to say anything in support of your claim eligibility for the said post, you are advised to personally contact this office alongwith all relevant original document and Photostat copies during office hours within fifteen days. No further correspondence will be entertained in this regards”.

Under General Clauses Act, 1897 as well as Indian Evidence Act, 1972, a strong rebuttal presumption arises qua delivery of a letter posted through ordinary post. This presumption has not been rebutted in the instant case, as no counter affidavit has been filed.

Consequently, we have no hesitation to hold that appellant was not in possession of essential qualification i.e D.Ed certificate on the date i.e. 8.4.2013 when her interview was conducted. Concededly the selection result was declared on 15.08.2014. Further, the writ

the Ld. Single Judge as there is an inordinate delay of more than 2 years in approaching the Court (writ filed on 21.11.2016). Infact, from the facts of instant case, we are of the view that the writ petition was also barred on account of estoppel and acquiescence, as appellant was in knowledge of her ground of rejection on the date of interview itself, still she chose to remain silent for reasons best known to her.

In view of the above, finding no merit, instant appeal is hereby ordered to be dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

January 20, 2020
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>