

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

111

=====

IN VIRTUAL COURT

=====

**CWP No. 2796 of 2021
Date of decision : 8.2.2021**

Tajender Kumar and others

.....Petitioners

Vs.

Haryana Staff Selection Commission and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Anil Mehta, Advocate, for the petitioners

Rajbir Sehrawat, J. (Oral)

This petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the impugned advertisement No. 6/2006, category No.22 dated 28.12.2020 (P-3), issued for the post of Art and Craft Teacher, as well as, the written examination, which has been held by the respondent commission on 31.1.2021 as part of the selection process.

The sole argument of the counsel for the petitioners is that the respondent-Commission has given different question papers to different candidates in the same exam, therefore, this has led to discrimination qua the petitioners, and has denied them the level playing field, hence, the entire exam itself has to be scrapped. The petitioners have relied upon the alleged fact that the respondent-Commission has issued two different answer keys for the exam held on the same day and has submitted that it shows that different questions were contained in different question papers. Still further, it has been submitted

that out of more than ten thousand candidates; about 250 candidates have been given a different question paper because all these candidates had taken coaching from a particular centre in Gurugram.

Having heard the arguments of the counsel for the petitioners, this Court does not find any substance in the same. It is well established law that it is for the selecting agency to decide the criteria of selection as deem fit by it. That power of the selecting agency includes the competence of the selecting agency to prescribe the type and nature of the questions to be asked from the examinees. The selecting agency is required to inform the prospective candidates only about the level of difficulty of the questions to be asked and the field/syllabus out of which the questions are to be asked. Beyond that it is the discretion of the selecting agency to choose the method of giving exam papers to candidates. Hence, there is nothing in law, which absolutely prevents the selecting agency from giving different sets of question papers to different sets of examinees. This is more clarified by the fact that even when some additional exam is to be held by the examining body, then the same questions cannot be given to the candidates, which were already asked in the earlier exam held for the same purpose. Hence, although giving same questions may be more appropriate to assess the comparative merits, yet merely the fact that different question papers have been given by the selecting agency to different examinees would not, per se, vitiate the exam as such.

By another argument; to buttress the submission qua the discrimination, the counsel for the petitioners has laid stress upon the fact that there is a set of 250 candidates, who have been given a different set of question paper and all those 250 candidates happened to be the students of a particular

coaching centre operating from Gurugram. However, there is nothing on record to substantiate the said argument of the counsel for the petitioners. Mere bald assertions, without any positive evidence on that aspect, would not be sufficient to prejudice the candidates who have already taken the exam, conducted by the selecting agency and who might have performed very well in the said exam. Otherwise also, the said argument is totally pre-mature. Even the result of the written exam has not been declared so far by the selecting agency. Therefore, it is not even certain whether anyone of these 250 candidates, against whom the petitioners are levelling allegations, would ever clear the said exam or not. At this stage, the arguments of the counsel for the petitioners is totally speculative in nature. The Court is not supposed to act upon the speculative arguments bereft of any evidentiary support or anything concrete to show the existence of facts upon which the Court can proceed.

In view of the above, find no merit in the petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

8.2.2021

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No