

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-11975-2020

Date of decision : 18.01.2021

Devender Kaushik and another

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present: Mr.Jasbir Mor, Advocate
for the petitioners.

Ms.Safia Gupta, AAG, Haryana.

*[The aforesaid presence is being recorded through video conferencing since
the proceedings are being conducted in virtual court]*

GIRISH AGNIHOTRI, J.

Petitioners Devender Kaushik and Dinesh Saini have jointly filed the present writ petition *inter alia* with a prayer to direct the respondents not to block 13 schools mentioned by the petitioners in their representations dated 09.08.2020 (Annexure P-8 and P-9) respectively and these 13 schools may be opened / displayed / made available on MIS portal of the respondent department for the petitioners and others for enabling them to submit their options / preference for their transfer in the said schools while participating in the Online transfer drive 2020 and declare / display the vacancies in these 13 schools in terms of the Government / Department Online Transfer Policy dated 06.03.2020 (Annexure P-4).

2. Learned counsel for the petitioners by making reference to the pleadings in the petition submits that the petitioners have been serving as Clerks in the department since last many years (in case of petitioner no.1

since 16.04.2002 and in case of petitioner no.2 since 03.05.2012 respectively). Learned counsel then submits that the respondents had issued online transfer policy dated 13.02.2020 wherein in the cadre total number of sanctioned posts are stated to be 500 or more. Learned counsel then refers to the definition clause as reproduced in para 4 of the writ petition to submit that the definition of block posts means the vacancies of a cadre remain unfilled at any given point of time due to shortage of employees in the department. Learned counsel thereafter has drawn attention of this Court that thereafter an amended transfer policy was also issued on 07.08.2020. He then refers to para 8 of the petition to submit that the vacancies which have been displayed as per the schedule on 07.08.2020 mentions that there are however 40 schools in District Jind where the vacancies of Clerks are available but these have been blocked and not displayed / made available. Learned counsel for the petitioners submits that petitioner no.1 vide Annexure P-8 dated 09.08.2020 had submitted his request for being transferred to GMS Shamlo Khurd and petitioner no.2 vide Annexure P-9 dated 09.08.2020 has submitted his first preference to GGMS, Braha Khurd.

3. Records of the case show that notice of motion was issued on 17.08.2020 and notice regarding stay was also issued.

4. Learned counsel for the State submits that in response to the notice of motion issued, on 15.10.2020 reply by Deputy Secretary to Government of Haryana, has been filed on behalf of respondents no.1 to 3. Learned counsel for the State *inter alia* submits that in corresponding para 8, it has been stated that although the petitioners are eligible for transfer but it is clarified that certain stations have been kept blocked keeping in view the strength of Clerks in the department across the State of Haryana. It is

further submitted that list of 13 schools that has been mentioned in the writ petition are middle schools and such schools which have students strength of less than within 125 students have been kept blocked for online transfer policy.

5. In view of the peculiar facts as noticed hereinabove, this Court deems it appropriate to dispose of the present writ petition. This Court notices that there are only two petitioners in the present writ petition who have filed writ petition and therefore, their prayer to unblock all the 13 schools as mentioned cannot be accepted.

i) The respondents / competent authority is directed to consider the representations / requests of the petitioners Annexures P-8 and P-9 qua GMS Shamlo Khurd for petitioner no.1 and GGMS, Braha Khurd for petitioner no.2.

ii) It is directed that the consideration of their requests qua the aforementioned be undertaken by the competent authority in accordance with law and pass an order. It is clarified that in case the petitioners are found eligible, they be considered and posted at the aforementioned stations, if however, there are any lawful reasons for denying the posts to the petitioners in the said schools, a detailed reasoned order be passed.

iii) Let the aforementioned exercise be completed within a period of two months from the date of receipt of certified copy of the order.

(GIRISH AGNIHOTRI)
JUDGE

January 18, 2021.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No