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

**CWP No. 14753 OF 2011
DATE OF DECISION : 21.11.2022**

Nisha Rani and others ...Petitioners

Versus

Addl. Deputy Commissioner and others ...Respondents

CWP No. 22307 of 2011 (O & M)

Kusum Devi and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP No. 2271 of 2021

Krishna Devi and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP No. 2347 of 2013

Kulwant Kaur and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP No. 22989 of 2012

Rajbala and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP No. 22251 of 2014

Surjit Bai ...Petitioner

Versus

State of Haryana and others ...Respondents

CWP No. 5142 of 2012

Karamjeet Kaur and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CWP No. 666 of 2015

Jaspal Kaur ...Petitioner

Versus

State of Haryana and others ...Respondents

CWP No. 17163 of 2013

Manju Bala ...Petitioner

Versus

Selection Committee, Sirsa and others ...Respondents

CWP No. 19402 of 2015

Bhagwanti ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Anu Chatrath, Senior Advocate with
Mr. Abhivrat Arya, Advocate;
Mr. Arvind Seth, Advocate;
Mr. Satbir Singh Gill, Advocate;
Mr. Abhinav Sood, Advocate;
Mr. Vikram Singh, Advocate;
Mr. Rakesh Nagpal, Advocate;
Mr. Dharamveer Phour, Advocate,
for the petitioner (s).

Mr. Saurabh Mohunta, DAG, Haryana.

Ms. Rinky Gupta, Advocate,
for respondent No.4 in CWP-19402-2018.

ARUN MONGA, J. (ORAL)

Vide this common order, above mentioned 10 writ petitions are being disposed of, since not only the facts are similar but the law points and the issues raised therein are also common. Facts are taken from CWP-14753-2011.

2. Indulgence of this Court, in substance, has been sought to sift the chaff from the grain, inasmuch as from the two sets of candidates who

competed for the selection for the post of Anganwari workers i.e., (1) those who are tainted and; (2) others the untainted.

3. Irregularities in the selection process are conceded by official respondents pursuant to which not only administrative action was initiated but certain criminal proceedings were also instituted and are still stated to be underway. In fact, the writ petition was filed way back in the year 2011-12. There has been much flow of water under the bridge ever since, as is borne out from various orders passed by this Court from time to time. Some of which, being relevant, are reproduced herein below for better understanding the controversy involved herein:

Order dated 30.10.2014 passed by Rajesh Bindal, J. (as his Lordship was then in this Court)

“It is not in dispute that pertaining to selection of Anganwari Workers and Helpers, there had been cuttings in the record, as a result of which some persons were selected, whereas some were rejected. On a complaint made by Ramesh Nagpal, Programme Officer, ICDS, Sirsa, FIR No. 655 dated 6.9.2012 was registered under the Prevention of Corruption Act against Suchi Bajaj, Women, Child Development and Project Officer, Madhosinghana at Sirsa.

A perusal of the original record pertaining to selection of Anganwari Helpers and Workers in Block Madhosinghana shows that there are lot of cuttings in the marks awarded by the authorities to various candidates at the time of consideration of their candidature. The documents have been signed by Child Development and Project Officer, Madhosinghana at Sirsa and Additional Deputy Commissioner, Sirsa. It was further pointed out by learned counsel for the State that Suchi Bajaj was initially suspended but has now been reinstated. No action was taken against the Additional Deputy Commissioner who had also signed the list having cuttings thereon, on the basis of which FIR was registered against Suchi Bajaj, Child Development and Project Officer.

Learned counsel for the State is not sure as to whether challan in the aforesaid FIR has been presented or not. It is a fact that though the FIR has been registered under the Prevention of Corruption Act with reference to tampering of record of selection and a period of more than two years has elapsed, but the original record pertaining to selection, where the cuttings have been made, is still in the custody of

the department. The same has not even been taken in possession by the Investigating Officer.

Let Secretary, Women and Child Development Department, Haryana and Superintendent of Police, Sirsa appear in person in court.

Adjourned to 31.10.2014.

A photo copy of the order be placed on the file of each connected case.

A photo copy of the order be handed over to learned Senior Deputy Advocate General, Haryana.”

Order dated 03.11.2014

“ In terms of the order passed by this court on 30.10.2014, Ms. Shashi Gulati, Principal Secretary, Women and Child Development Department and Mr. Mitesh Jain, Superintendent of Police, Sirsa are present in court in person.

Mr. Mitesh Jain informed that after receipt of notice in the present case, he called for file of the case and found that cancellation of the FIR was recommended on 3.12.2012 by the Investigating Officer. The same was even approved by the then Superintendent of Police in May, 2013, however, it was not presented in the court. After going through the file, he has recommended action against the Investigating Officer having not investigated the case properly and also directed for further investigation. It is a case in which there was tampering of record but the original record, where the cuttings were made, was still in custody of the State, as the same was produced in court. How investigation was carried by the Investigating Officer could not be imagined.

Ms. Shashi Gulati stated that the enquiry officer, appointed to go into the charges against Suchi Bajaj, Women, Child Development and Project Officer, has submitted enquiry report dated 21.10.2014 exonerating her from all the charges. The same is still to be considered by the punishing authority. She seeks some time to go through the entire record and form an opinion as regards action to be taken in the enquiry report. It was further pointed out that on account of non-appointment of Anganwari Workers/Helpers, the work is suffering, hence, she prayed that permission be granted for carrying out entirely fresh process of selection so that the candidates could be appointed and assigned their duties in terms of the Scheme.

After hearing the aforesaid contentions, in my opinion, permission deserves to be granted to the department to initiate fresh process for selection of Anganwari Workers/Helpers so that work of the Department under the Scheme does not suffer. Order dated 22.12.2011 passed in CWP No. 22307 of 2011 is modified to that extent.

Affidavit be filed regarding latest status of the case before the next date of hearing. The role of Additional Deputy Commissioner and other officer/official(s), who signed the select list with cuttings, be also examined and so the role of the then Superintendent of Police, Sirsa, who approved cancellation of FIR under the Prevention of Corruption Act. The conduct of the then Deputy Commissioner, Sirsa, who only found Women, Child Development and Project Officer responsible for cuttings also needs to be examined.

Adjourned to 4.12.2014.

The aforesaid officers are not required to be present in court unless otherwise directed.”

Order dated 04.12.2014

“Status report by way of affidavit of Dharamvir Singh, HPS, Deputy Superintendent of Police (City), Sirsa dated 4.12.2014 filed in Court is taken on record. It has been inter-alia stated therein that the matter is being investigated into. Statement of Pankaj Chaudhary, the then Additional Deputy Commissioner was recorded, where she could not satisfactorily explain the cuttings made in the select list. Her conduct has been found to be doubtful. The conduct of the then Deputy Superintendent of Police, who prepared the cancellation report without taking into custody the original record where cuttings had been effected; the law officer who opined the case to be fit for filing cancellation report and the then Superintendent of Police, who approved the same, is still to be examined.

Learned counsel for the State to further apprise the Court about the status of the enquiry report submitted against Suchi Bajaj.

Adjourned to 22.12.2014.

To be shown in the urgent list.

A photo copy of the order be placed on the file of each connected case.”

Order dated 22.12.2014

“ Status report by way of affidavit of Sukriti Likhi, Director General, Women and Child Development Department, Haryana dated 19.12.2014 filed in Court is taken on record. It has been stated therein that the enquiry report received in the case of Suchi Bajaj, Women and Child Development and Project Officer, Sirsa has not been accepted by the disciplinary authority and fresh enquiry has been ordered.

Learned counsel for the State seeks further time to apprise the Court about the action taken against other officers/officials, as referred to in the order dated 4.12.2014.

Adjourned to 12.01.2015.

A photo copy of the order be placed on the file of each connected case.”

4. While learned Single Judge was seized of the matter in the interregnum, LPA No.2131 of 2014 was filed assailing interim order dated 03.11.2014 as already reproduced herein above.

5. *Apropos*, the Division Bench without interfering with the Single Judge order impugned before it, in order to balance the equities passed order dated 03.03.2015 and permitted the department to initiate fresh selection process, albeit with certain riders. Speaking for the Division Bench which was presided over by Surya Kant, J. (as his Lordship was then in this Court), it was observed/ directed as under :

“xxx

[9] In our considered view, the inter-se rights of the parties and equities can be effectively balanced without expressing any views on merits lest anyone of them is prejudiced before the learned Single Judge, by issuing the following directions:-

(i) The department shall be at liberty to initiate fresh selection process for all the posts of Anganwari Workers/Helpers;

(ii) The appellants (writ-petitioners), if decides to participate in that selection process, the same shall be without prejudice to their right in the pending writ-petitions. The respondents shall not be entitled to invoke the principle of estoppel or waiver against the appellants in this regard;

(iii) The respondent-authorities shall be at liberty to declare the result of selection process of Anganwari Workers/Helpers except to the posts against which the appellants (writ- petitioners) claim themselves to have been selected.

[10] We request the learned Single Judge to make an endeavour to decide the writ-petitions on the date fixed, i.e., on 06.04.2015. subject to other prioritized cases and/or convenience.

[11] The appeals stand disposed of accordingly.”

6. Equipped with the liberty granted to the respondents as aforesaid by the Division Bench, it transpires that the entire earlier

selection process initiated vide advertisement dated 06.12.2011 was scrapped. A fresh advertisement was later published during the pendency of writ proceedings and pursuant thereto, entire selection process has been carried out *de novo*.

7. In fact, it so happened that the said scrapping of earlier selection process had been carried out on the administrative side when the petitioners had impugned the same in the instant writ proceedings, but owing to the interim order, scrapping had to be put on hold. It is only after the order of the Division Bench that the said scrapping was meaningfully implemented.

8. The petitioners are not aware whether or not they were successful in selection, as the result was kept in a sealed cover in deference to the pendency of instant writ proceedings. That is where the matter is standstill, as on today. In this context, it would be pertinent to refer to an affidavit dated 13.12.2016 of Shri D. S. Dhesi, the then Chief Secretary of the State of Haryana. Relevant portion whereof is reproduced herein below :

“xxx

2. That at the very outset it is humbly and respectfully submitted that the matter has been considered at considerable length after perusing the entire records of the matter, it has been decided that the entire selection of District Sirsa has been found to be riddled with grave illegalities and irregularities affecting the integrity of the selection, the said selection be and is hereby scrapped in entirety. Majority of such selected persons, who have been selected earlier, have earlier consciously not been given appointments, as the said selection was already in the eyes of suspicion. As such, the said selection is hereby scrapped and the same shall be held again. Wherever the candidates have joined in Sirsa District, they shall be given show cause notices and based upon the replies received, due action shall be taken.

However, in the meantime, fresh selection process has already been held in District Sirsa, and many of the

candidates who have applied again, have since been considered afresh and as many as 195 candidates out of 261 Petitioners have already been re-interviewed and the results thereof are lying in the sealed cover. The said sealed covers shall now be opened and the fresh selections so made, shall be given effect to.

3. That for the remaining districts, as per the reports of the committees and upon perusal of the records, there are no such discrepancies and cuttings as yet, which affect the merits and integrity of the selection. As such, based upon the perusal of the records, if any such case comes to light wherein the discrepancies of such magnitude are reported by the committees the Government shall take due and appropriate decision on the parity in case to case basis.”

9. Having gone through various orders, as reproduced herein above vis-à-vis status report of the Chief Secretary, I am of the view that the equities have already been well balanced *qua* the selected vis-à-vis non-selected candidates. It is not feasible or proper for this Court in writ jurisdiction to go into the fact finding measures to unearth the allegations of the nature, as have been made herein and also noticed in the orders already reproduced herein above. When allegations of such nature are there, it is better that entire selection process is rather quashed, instead of threadbare going by each candidate's merits.

10. Needless to say that though it is the State, which is responsible for such irregularities, but since both administrative as well as necessary criminal proceedings have already been initiated, this Court would refrain to comment any further on the same, however with the expectation that the authorities concerned will take appropriate preventive measures against repetition of such situations in future. Furthermore, to hold, as has been argued by learned counsel for the petitioners that once having been declared successful, including the petitioner in the earlier selection process, must be given the benefit, would amount to perpetuating the irregularities.

11. Learned counsel for the petitioners rather over emphasizes on interim orders dated 18.03.2017 passed by P. B. Bajantri, J. (as he then was in this Court) followed by another Court order which is dated 10.05.2018.

Order dated 18.03.2017

“ Learned State counsel on instructions submitted that it was submitted that pursuant to the earlier notification for recruitment to the post of Angwanwari Workers and Helpers which was advertised for 430 posts would be proceeded from the defective stage in the selection process namely award of interview marks. Such process shall be completed within a period of 3 months from today. It is made clear that for 430 posts whatever applications received by the selecting authority with reference to last date i.e., 22.12.2011 prescribed in the advertisement dated 06.12.2011 is required to be considered not beyond the last date of submission of application.

List on 24.07.2017.

Photocopy of this order be placed on the files of other connected cases.”

Order dated 10.05.2018

CM-9914-CWP-2017 in CWP-2271-2012

“ Heard CM for clarification/modification of the order dated 18.03.2017. Applicants have not made out a case for any modification of order dated 18.03.2017. Learned State counsel submitted that prior to 18.03.2017 whatever the direction given on 18.03.2017 has already been carried out on administrative side. Therefore, necessary modification is required. If the applicants have complied the directions issued on 18.03.2017 on administrative side prior to 18.03.2017 in that event question of modification of order dated 18.03.2017 do not arise. Accordingly, CM stands dismissed.

Main case

Registry is hereby directed to list the main matter as per roster before the appropriate bench.

Photocopy of this order be placed on the files of other connected cases.”

12. Having gone through the aforesaid orders, I do not see as to how the petitioners are claiming benefit of so-called defective stage.

That claim of defective stage ought to be made when the alleged cuttings

were made in the interview marks effectively, meaning thereby that the defective process from the stage of interview should be carried out *de novo*.

13. On a Court query, it transpires that selection of Anganwari workers is carried out only on the basis of interview and there is no written examination to be conducted *qua* the same. Being so, since the entire selection process has already been carried out and it was open to the petitioners to participate therein, learned State counsel, under instructions from Dr. Darshana Singh, District Program Officer, Sirsa, has drawn my attention to an affidavit dated 25.10.2018 of Mrs. Hema Sharma, Director, Women and Child Development Department, Haryana, wherein it has been deposed that as many as 247 out of 315 petitioners re-applied for the fresh selection. Further, it has been stated that as many as 68 did not participate in the fresh selections on account of various possible grounds viz., they got jobs elsewhere or they were unavailable for the selections, or they did not meet the requisite criteria. As such, that by itself, would not clothe the petitioners with a right to seek the annulment of the fresh selection processes already undertaken as per law, against which there are no questions being raised. The concerned candidates were duly interviewed and their result is also contained in a sealed cover.

14. In the overall premise, I do not find any ground to proceed any further with the writ petitions. The instant writ petitions are disposed of with direction to the respondents to open the sealed covers and declare the result of fresh selection. It is further directed that pursuant thereto appointment letters be issued to the selected candidates which have been put on hold for as long as ten years and even the selected candidates for no fault of theirs, have been waiting for appointments.

15. Pending applications, if any, also stand disposed of.

NOVEMBER 21, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No