

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

1. Civil Writ Petition No.12283 of 2015
Date of Decision: February 25 , 2022.

ArpanaYadav PETITIONER

Versus

State of Haryana and others RESPONDENTS

2. Civil Writ Petition No.20823 of 2015

Kuldeep Singh and others PETITIONERS

Versus

State of Haryana and others RESPONDENTS

3. Civil Writ Petition No.14102 of 2016

Mani Ram PETITIONER

Versus

State of Haryana and others RESPONDENTS

4. Civil Writ Petition No.9736 of 2014

Sidhraj PETITIONER

Versus

State of Haryana and others RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Sandeep Verma, Sachin Jain, Vikram Brar
and Shubham Thakur, Advocates
for the petitioner in CWP No.12283 of 2015.

Mr. Anurag Goyal, Advocate and
Mr. Shivam Malik, Advocates
for the petitioners in CWP No.20823 of 2015.

Mr. Arvind Rajotia, Advocate
for the petitioner in CWP No.14102 of 2016.

Mr. Raje Ram Kaushik, Advocate
for the petitioner in CWP No.9736 of 2014.

Ms. Shruti Jain, DAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CWP No.12283 of 2015 (ArpanaYadav v. State of Haryana and others), CWP No.20823 of 2015 (Kuldeep Singh and others v. State of Haryana and others), CWP No.14102 of 2016 (Mani Ram v. State of Haryana and others) and CWP No.9736 of 2014 (Sidhraj v.State of Haryana and others) as an identical issue arises in all these four petitions. All the abovesaid writ petitions were taken up together for hearing and decision at request and with consent of learned counsel for the parties.

Petitioners in all these writ petitions seek appointment to the post of PGT (English, Mathematics, Hindi and Physical Education). The petitioners, it is stated, being fully qualified, applied for the posts in question pursuant to advertisement No.1/2012 dated 06.06.2012, published on 07.06.2012. The petitioners were reflected to have been selected as per the results declared on 30.12.2013, 03.04.2013 and 01.01.2014. Appointments have been denied to all the petitioners on the ground that they secured their qualifications from deemed Universities i.e., ‘Institute of Advanced Studies in Education, Gandhi Vidya

Mandir, Sardar Shahar, Rajasthan’ and ‘Institute of Vinayak Mission University, Salem, Tamil Nadu’. In the present set of cases, insofar as the factual position regarding the petitioners being otherwise fully eligible and qualified, is not in dispute. Their candidature has been rejected solely on the ground that they have secured the requisite educational qualification from the abovesaid deemed institutes/universities.

Learned counsel for the petitioners vehemently argued that the matter is squarely covered in favour of the petitioners in view of decision dated 27.05.2015 in CWP No.7626 of 2015 (Gurmail Kaur and others v. State of Haryana and another). LPA No.1215 of 2015 preferred by the State of Haryana challenging the abovesaid decision dated 27.05.2015 was dismissed as withdrawn on 19.08.2019 with liberty to the State to file review petition. The review petition filed by the State was dismissed on 08.01.2021. Thereafter, LPA No.171 of 2021 challenging said order dated 08.01.2021 was also dismissed vide order dated 22.03.2021 primarily on the ground that the State has not sought permission to file a fresh appeal against decision dated 27.05.2015 in CWP No.7626 of 2015, when LPA No.1215 of 2015 was dismissed as withdrawn on 19.08.2019.

Learned counsel for the petitioners submitted that though SLP No.17134 of 2021 has been filed by the State challenging order dated 22.03.2021 in LPA No.171 of 2021 in which notice has been issued, the State Government itself has proceeded to issue conditional appointment letters to persons identically situated as the present petitioners. However, appointment is being denied to the petitioners in an absolutely unjust manner. Learned counsel for the petitioners urged that in the case of present petitioners too, conditional

appointment letters may be issued subject to decision of SLP No.17134 of 2021. The present petitions, it is contended, were filed wayback in the year 2015 and were kept pending to await decision in LPA No.1215 of 2015. At this stage, it is urged that there is no justification left with the respondent-authorities in denying appointment letters to the petitioners as has been done in the case of identically situated persons. Reference is made to the short reply filed in all these cases wherein it is admitted that similar controversy has been decided in the petitioners' favour vide order dated 27.05.2015 in CWP No.7626 of 2015 (Gurmail Kaur and others v. State of Haryana and another). However, as LPA No.1215 of 2015 was stated to be pending, it was prayed that proceedings in the present petitions be kept in abeyance till the final outcome of LPA No.1215 of 2015. It is, thus, prayed that at this stage conditional appointment letters be issued in favour of the petitioners, who have been vigilantly pursuing their remedy since 2015.

Learned counsel for the State while unable to deny the specific stand in the short reply filed on behalf of the respondents, submits that the matter is, in fact, pending adjudication before the Hon'ble Supreme Court now. Therefore, there is no question of issuance of any appointment letters to the present petitioners. At the same time, learned counsel for the respondents has been unable to deny that conditional appointment letters have been issued to similarly situated persons as the petitioners.

Heard learned counsel for the parties and have gone through the file with their able assistance.

It is a matter of record that CWP No.7626 of 2015 (Gurmail Kaur and others v. State of Haryana and another) was allowed on 27.05.2015. The

question framed thereunder reads as under:-

“The sole question, which arises for consideration in all the aforementioned writ petitions, is as to whether the respondent authorities can withhold the appointment letters by taking the aid of the judgment in **Kartar Singh Versus Union of India and others, 2013(1) RSJ 224** rendered by the Division Bench of this Court despite there being an interim order of the Hon’ble Supreme Court dated 14.12.2012 in Special Leave Petition (Civil) Nos.35793-35796 of 2012, whereby the aforementioned judgment has been challenged.”

The petitioners in CWP No.7626 of 2015 and other connected matters decided with the said writ petition, had obtained their M.A. Degrees from various deemed Universities including Vinayak Mission University, Salem, Tamil Nadu and IASE Sardar Sahar, Rajasthan (which are the universities from which the present petitioners have secured the requisite degrees) and were aggrieved against the action of the official respondents and specifically order dated 18.01.2014 of Principal Secretary to Government of Haryana, School Education Department, Chandigarh whereby it was clarified that the candidates who have secured qualifications from the deemed Universities in question were not required to come for counselling due to pendency of the matter before the Hon’ble Supreme Court and notice to this effect on the website of the respondent-Department was also flashed. The action of the State was claimed to be discriminatory, arbitrary and illegal, besides the act being an aberration. It is to be noticed at this stage that in **Kartar Singh (supra)** it was held that deemed University/ies cannot offer courses outside the headquarters by opening distance study centres, without approval of the regulatory body. Adjudication was in respect to imparting of technical education by such

universities. The said decision was upheld by the Hon'ble Supreme Court in **Orissa Lift Irrigation Corp. Ltd. v. RabiSankarPatro and others, 2018(1) SCC 468**. It is a matter of record that the Hon'ble Supreme Court was adjudicating the matter in respect to award of degrees in technical education/ engineering in the said case. It was held that the deemed universities could not award degrees in technical education through distance education mode while observing that the technical education leading to the award of Degrees in Engineering consists of imparting of lessons in theory as well as practicals. The practicals form the backbone of such education which is hands-on approach involving actual application of principles taught in theory under the watchful eyes of demonstrators or Lecturers and that face to face imparting of knowledge in theory classes is to be reinforced in practical classes. Thus, it was observed that the practicals constitute an integral part of technical education system. In the subsequent order passed by the Hon'ble Supreme Court as reported in **2018(2) SCC 298**, on applications seeking clarification/modification of the directions issued by the Hon'ble Supreme Court in **Orissa Lift Irrigation's case** (supra) clarified that the controversy pertained to validity of degrees in Engineering conferred by the Deemed Universities through distance education mode and not even validity of Diplomas conferred by such Deemed Universities.

It is not denied that in the present cases, the Degrees secured by the petitioners are not related to technical education.

Brief facts necessary for proper adjudication of this matter, are that an advertisement dated 07.06.2012 was issued by the Haryana School Teachers Selection Board inviting applications for the posts of Post Graduate Teachers

(PGT) HES-II (Group-B Services) in different subjects. The petitioners being eligible for the posts in question, applied through the online mode. Haryana State Education School Cadre (Group-B) Service Rules, 2012 were promulgated and notified on 11.04.2012 according to which persons seeking appoint to the post of Post Graduate Teacher (PGT) in a particular discipline, should have passed Master of Arts (M.A.) in the said subject with at least 50% marks and B.Ed from recognized university and matriculation with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject with Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) and consistent good academic record. However, vide notification dated 02.07.2012, teachers working in the privately managed government aided, recognized and government schools were exempted from having qualifications of Haryana Teachers Eligibility Test (HTET) or School Teachers Eligibility Test (HTET) and B.Ed. as described in Column 3, if they have worked as a teacher for a minimum period of four years on the date of enforcement of these rules. It is the case of the petitioners that they were duly selected, but have been denied appointment only on the ground that the qualification of Master of Arts (MA) is not recognized having been secured from a deemed university. Persons similarly situated as the petitioners filed CWP No.7626 of 2015 (Gurmail Kaur and others v. State of Haryana and another), which was allowed on 27.05.2015.

In **GurmailKaur's case** (supra), coordinate Bench while taking note of the interim order passed by the Hon'ble Supreme Court in **Kartar Singh's case** (supra) observed that the Division Bench of this court had only pondered upon the controversy with regard to the award of degrees by the aforementioned deemed Universities in respect of technical/professional courses

and not with regard to the general study i.e., Post-Graduation course as the pith and substance of the judgment pertains to only degrees of technical/professional courses. It is in this view of the matter, the writ petitions (Gurmail Kaur and others) were allowed and the respondents were directed to issue appointment letters to the petitioners therein by inserting a condition in the same manner as has been put while issuing appointment letters to the candidates who had challenged the exemption clause vis-à-vis sitting in HTET/STET examinations.

It is to be noticed at this stage that in CWP No.22095 of 2014, which was disposed of alongwith CWP No.7626 of 20152015 (Gurmail Kaur and others v. State of Haryana and another), CM No.16917-CWP of 2019 was filed on behalf of petitioner No.2 therein, when appointment letter was not issued to him despite specific orders. When it was found that appointment letters were being issued in a piece-meal manner, following order was passed on 31.08.2021 in the abovesaid application:-

“Mr. Nain, submits that vide order dated 30.08.2021, the State has appointed 27 candidates as Post Graduate Teacher (PGT) Mathematics (HESII), on the recommendation of Haryana School Teachers Selection Board, Panchkula, subject to appeals/SLP to be filed later.

A perusal of the said order would go on to show that in compliance of the order passed by this Court in COCP Nos.1737, 1741, 1743, 1782, 1785, 1791, 1796, 1798, 1800, 1805 and 1807 of 2021, the appointment orders have been passed.

The Director, Secondary Education, Haryana was ordered to be present by way of video conferencing, on account of the fact that the appointments were being given on a selective basis. Counsel for the State has submitted that on account of the conditional order having been complied, he has not joined proceedings. The present litigation is arising out of the judgment passed by this Court in **CWP No.7626 of**

2015 'Gurmail Kaur and others Vs. State of Haryana and another'
decided on 27.05.2015.

It is not disputed that LPA Nos.1215 of 2015 had initially been dismissed on 19.08.2019 and liberty was given to file a review petition. The same was dismissed on 08.01.2021. Thereafter, LPA No.171 of 2021 was also dismissed on 02.03.2021. The State has been taking the stand in various cases that the case of similarly situated persons would be decided after the decision of the above said litigation. In spite of that selective orders as such of appointments are being issued, apparently only where contempt petitions are being filed. Thus, the State itself is generating litigation, on account of its inaction and not taking a clear cut decision as to how it proposes to deal with the issue in principle.

Let, a affidavit be filed regarding this aspect by the Director, Secondary Education, Haryana, as to why this course of action is being followed, once the judgment in the case of Gurmail Kaur (supra) has become final and why this discrimination on the part of the State is being done.

Needful be done on or before the next date of hearing.

Adjourned to 05.10.2021.”

Affidavit dated 26.10.2021 of Mr. J.Ganesan, Director Secondary Education, Haryana was filed therein taking a plea that compilation of data of the concerned candidates is a time consuming process. Conditional appointment letters are stated to have been issued to 175 candidates.

LPA No.1215 of 2015 was dismissed as withdrawn on 19.08.2019 with liberty to the respondent-State to file review petitions, if so desired with the observation that the limitation will not come in the way of appellants in view of Section 14 of the Limitation Act. Admittedly, review petition filed by the respondent-State stands dismissed on 08.01.2021 though on the ground of delay. LPA No.171 of 2021 has admittedly been dismissed on 22.03.2021 though SLP

No.17134 of 2021 is pending before the Hon'ble Supreme Court. Learned counsel for the State is unable to deny that there is no interim order passed by the Hon'ble Supreme Court in the matter. Furthermore, keeping in view the fact that in similar circumstances conditional orders of appointment have been issued to the similarly situated candidates, there is no justification for withholding the same qua the petitioners, keeping in view the specific stand of the respondent-Department that the petitioners are otherwise fully eligible for appointment except having secured their degrees from the deemed Universities, in question. It is to be noted at this stage that petitioners have been awaiting adjudication of these writ petitions since 2015.

In my considered opinion, the present petitioners are entitled to the issuance of conditional appointment letters subject to their fulfillment of other eligibility conditions and subject to decision of SLP No.17134 of 2021 pending before the Hon'ble Supreme Court, as is the exercise which has admittedly been undertaken by the respondent-State itself in the case of other similarly situated candidates. Ordered accordingly.

Needless to say by issuance of such appointment letters, no vested right shall accrue to the petitioners and appointment shall be strictly subject to decision of the Hon'ble Supreme Court in the abovesaid pending matter.

Writ petitions are disposed of accordingly.

February 25, 2022.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No