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

Date of decision: September 22, 2022

**1. CM-15069-CWP-2022 IN/AND
CWP-7948-2010 (O&M)**

Devinder Singh and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

2. CWP-993-2018 (O&M)

Virender Kumar and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Puneet Bali, Senior Advocate with
Mr. Vikram Brar, Advocate,
Mr. Vishavjeet Beniwal, Advocate for the petitioners
in CWP-7948-2010.

Mr. Pardeep Solath, Advocate
Mr. Satbir Mor, Advocate for the petitioners
in CWP No. 993 of 2018.

Mr. Saurabh Mohunta, DAG Haryana.

Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for respondents No.6, 7, 8, 10, 12, 14, 16, 18, 19, 20, 22, 25, 32,
33, 35, 36, 37, 38, 39, 40, 41, 43, 45, 46, 47, 49 to 52
in CWP-7948-2010 and
for respondent Nos.8, 11, 12, 13, 14, 15, 18, 21, 29
in CWP-993-2018.

Mr. S.K. Yadav, Advocate for respondent No.7
in CWP-7948-2010.

Mr. Mukul Aggarwal, Advocate
for respondents No.12, 21, 24, 29 & 34 in CWP-7948- 2010.

**CWP-7948-2010 (O&M) and
CWP-993-2018 (O&M)**

Mr. Sumeet Goel, Senior Advocate with
Mr. Paramveer Singh, Advocate
for respondents No. 9 and 44 in CWP-7948-2010.

Mr. Rajiv Atma Ram, Sr. Advocate with
Mr. Brijesh Khosla, Advocate
for respondents No. 15, 26, 28, 30 and 48 in CWP-7948- 2010.

Mr. Anil Dutt, Advocate for respondent No.23
in CWP-7948-2010.

Mr. Prashant Singh Chauhan, Advocate
for respondent No.24 in CWP-993-2018.

Mr. Surinder Gandhi, Advocate
for respondent No.27 in CWP-7948-2010.

Mr. Shivam Malik, Advocate
for respondent No.2 in CWP-993-2018.

Mr. J.S. Dahiya, Advocate
for respondent No.27 in CWP-993-2018 &
for respondent No.4 in CWP-7948-2010.

Mr. Wazir Singh, Advocate
for respondent No.17 in CWP-7948-2010 and
for respondent No. 6 in CWP-993-2018.

Mr. Ravinder Malik (Ravi), Advocate for respondent No.23 in
CWP-7948-2010.

ARUN MONGA, J. (ORAL)

CM-15069-CWP-2022 IN CWP-7948-2010

For the reasons stated in the application, the same is allowed.

Written statement on behalf of respondent No.27 is taken on record, subject to
all just exceptions.

Main cases (O&M)

Vide this common order and judgment, above-mentioned two 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. For brevity, recitals are taken from CWP-7948-2010.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing selection of private-respondents for the post of Family Welfare Extension Educator, advertised on 22.07.2009 vide Advertisement No.9/2007 by respondent No.2 which selections were made by respondents No.1 to 3 alleging the same to be illegal, arbitrary and against principles of natural justice.

3. Succinct factual background first. Pleaded case is that respondent-Haryana Staff Selection Commission issued Advertisement No.9/2007 on 22.07.2007 (Annexure P-1) inviting applications for 63 posts of Family Welfare Extension Educator in the Department of Health, Government of Haryana. Out of said 63 posts, 39 were for General category. Petitioners applied for the said posts. They were called for interviews. Respondent No.2 fixed the selection criteria, according to which, maximum marks were said to be 75, out of which, 50 marks were to be given for qualifications and experience and rest 25 marks for performance at the time of interview. Petitioners had requisite knowledge and experience for the posts in question. Result was declared on 10.04.2018 and published on 11.04.2008 (Annexure P-5), but none of the petitioners cleared the selection process. 16 candidates were kept in waiting list. Aggrieved petitioners, approached respondents No.1 and 3-Department of Health as well as respondent No.2-Staff Selection Commission, in this regard, but no reply was given to them. Petitioners sought information under RTI. Thereafter, petitioners preferred CWP-10221-2008 before this Court raising their grievance against

selected candidates. Said writ petition was disposed of vide order dated 24.09.2009 with liberty to the petitioners. Hence, the petitions.

4. I have heard competing arguments of learned Senior counsel for the parties and gone through the case file.

5. Merits of the case are though being touched, but only noted in the passing since the allegations in the petition by the unsuccessful candidates are well in the nature of blowing whistle *qua* the successful candidates' credentials. In any case, much water has flown under bridge in view of the various orders passed by this Court during pendency of the writ proceedings. First and foremost, order dated 24.09.2009 (Annexure P-12) passed in the earlier round of litigation vide CWP-10221-2008 by Ranjit Singh, J. (as he then was in this Court), who speaking for this Court held as under:

“The categorical affidavit has been filed on behalf of the Respondent-State to show that none of the persons who had a bogus certificate has been appointed. Counsel for the petitioners contend that wrong information has been supplied in this Affidavit. In case any person with a bogus certificate has still been appointed, the petitioners would be at liberty to take appropriate proceedings in accordance with law against the persons. The petitioners would also be at liberty to initiate action against a person who has filed an Affidavit which is found to be false. The petitioner would also be at liberty to challenge the appointment of any person, who has been appointed because of bogus certificate or otherwise being not qualified.

The present Writ Petition is disposed of.”

6. *Apropos*, it is the liberty which was granted to the petitioners which led to second foray of litigation before this Court vide the instant writ petitions. Vide detailed order dated 04.02.2016 passed by my learned Brother Deepak Sibal, J. (as he then was seized of the matter), the writ petition was directed to be heard along with LPA-435-2015. The said order is reproduced herein below:

“Through the present petition, the petitioners challenge the selection to the post of Family Welfare Extension Educators inter

*alia on the ground that the experience certificates relied upon by the private respondents to seek their appointments are fake and fabricated. Reliance is placed on the judgment of a learned Single Judge of this Court in **CWP No.16882 of 2009 titled Mahender Singh vs. State of Haryana and others** decided on 15.01.2015, wherein while deciding a similar issue, the Court has set aside the appointments of the private respondents therein and further directed the appointment of the petitioner-Mahender Singh.*

Learned senior counsel appearing on behalf of the respondents submits that in an intra Court appeal filed against Mahender Singh's case (supra) being LPA No.435 of 2015 titled Anita Kumari vs. State of Haryana and others, the Division Bench on 23.03.2015 passed the following order:-

“Learned Single Judge has set aside the selection of three candidates appointed on the post of Family Welfare Extension Educators with a categorical finding that the ‘experience certificates’ relied upon by them are fake and fabricated. One of the aggrieved selected candidate is in appeal before us.

Having heard learned counsel for the appellant and after going through the record, it appears that following aspect of the matter requires consideration:

(i) Whether learned Single Judge could issue a direction for appointment of writ-petitioner who himself has relied upon a doubtful experience certificate issued by an alleged NGO (Gramin Vikas Sansthan)?

(ii) Whether the entire selection process would be vitiated once it is detected that bogus, fake and ingenuine experience certificates are hallmark of such selection?

Notice of motion.

On our asking, Mr. Ravi Dutt Sharma, DAG Haryana accepts notice on behalf of respondents no.1,2&3.

The prayer for interim stay is declined. However, the direction issued by learned Single Judge to appoint the writ-04 petitioner/respondent No.4 shall remain stayed. The State Vigilance Bureau is directed to hold an enquiry with respect to the genuineness of experience certificates relied upon by all the appointees/selected candidates and submit its fact-finding report in a sealed cover. No further action shall be taken on such report till further orders.

List on 13.07.2015.

Let a dasti copy of this order be handed over to Mr. Ravi Dutt Sharma, DAG Haryana for information and necessary compliance.”

It is further submitted that in pursuance to the aforequoted order, the State Vigilance Bureau's report is awaited.

That being the position, on the request of learned Senior counsel appearing on behalf of the petitioners, I consider it just and appropriate that this matter be also listed before the Division Bench and heard along with LPA No.435 of 2015 titled Anita

Kumari vs. State of Haryana and others, after taking necessary orders from the Hon'ble the Acting Chief Justice."

7. Subsequently, pursuant to the aforesaid order, writ petition was tagged along with LPA-435-2015 and was heard from time to time by a Division Bench of this Court. Order dated 03.05.2017 passed there is relevant, wherein, speaking for the Division Bench, Surya Kant J. (as his Lordship then was in this Court) observed as below:

"The controversy in this case pertains to eligibility of the candidates and genuineness of the 'Experience Certificates' relied upon for selection to the post of Family Welfare Extension Educators. Earlier, the so-called enquiry report submitted by the State Vigilance Bureau was found to be totally frivolous, casual and an attempt to suppress the truth re: genuineness of the 'Experience Certificates'. This Court consequently rejected the said report on 28.11.2016. The Department was directed to prepare a list of the Institutes which have given more than one experience certificate to the selected candidates and submit the same in a tabulated form.

[2] In compliance thereto, Dr. Vijay Garg, Director Health Services, Family Welfare, Haryana has filed his affidavit along with list of candidates and details of the institutes from where 'Experience Certificates' were taken. (Annexure R-1). It is explained in the affidavit on illustrative basis that a certificate issued in favour of one Anju Bala by Mittal Clinic, Charkhi Dadri for the period from 01.01.2000 to 31.01.2002 is ex facie bogus. Some other instances have also been quoted.

[3] We are, thus, satisfied that genuineness of each 'Experience Certificate' requires a deeper probe. We grant one more opportunity to the State Vigilance Bureau to come out with a fair and genuine enquiry into the matter. The Director General of Police, State Vigilance Bureau is thus directed to constitute a Special Investigation Team (SIT) headed by an IPS Officer who does not belong to the State of Haryana along with two more officers preferably in the rank of Deputy Superintendent of Police. The SIT shall go into the records of each institute from where 'Experience Certificates' have been obtained and submit a report as to whether such certificates are genuine or were procured merely to gain eligibility for the advertised posts. The SIT shall also verify the records of Staff Selection Board and find out whether candidature of almost all the candidates were earlier rejected and if so, how their applications were entertained again, treating them eligible? The selected candidates be also joined in the enquiry. The report shall be submitted positively before the next date of hearing.

[4] List on 31.08.2017.

[5] A copy of this order be given Mr. Deepak Balyan, Additional Advocate General, Haryana, for information and necessary compliance.

[6] Let a photocopy of this order be placed on the files of other connected cases.”

8. Still later, matter was subsequently heard by another Division Bench, when expressing displeasure over the action taken by the Special Investigation Team (SIT), speaking for the Division Bench, Mahesh Grover, J. (as he then was in this Court) opined as below on 21.05.2018:

“The report of the Special Investigating Team (SIT) makes no sense at all. It is incoherent incapable of any interpretation what to talk of any positive conclusion. It does not even address the core issues and betrays an inept handling not befitting the status of a SIT. No attempt has been made by the Investigating Officer to verify the facts and credentials of the society which issued the certificates.

We therefore, express our absolute displeasure on the report of the SIT which deserves to be deprecated, considering that it was constituted under the Orders of the Court and yet the sanctity of the purpose was completely lost. We would however, not comment on the issue any further considering that a request has been made by learned State counsel to permit him time and therefore, while accepting the prayer for an adjournment we direct that the Investigating Team would direct itself to the issues raised in the petition and respond to the purpose for which it was set up.

Comprehensive Report be now submitted within a period of 8 weeks from today. We make it clear that in case the SIT attempts to hoodwink the Court by giving vague report with ambiguous statements, the officer involved shall be summoned to the Court to explain his attempt to defeat and obstruct the proceedings.

List again on 16.08.2018.

A photocopy of this Order be placed on the files of other connected cases numbered above.”

9. It appears that having faced the wrath of this Court, State functionaries subsequently swung into action, as is reflected from order dated 16.08.2018 passed by the Division Bench, inasmuch as, therein it was found that show-cause notices are to be issued on the basis of enquiry reports submitted by the SIT and needful has been done. The said order reads as below:

“XX XX XX.

In deference to the directions issued on May 03, 2017, the SIT is said to have submitted its report, according to which Experience Certificates of 37 selected candidates were found genuine whereas such Certificates of other 42 candidates have been found to be bogus or fake. Since those 42 candidates are likely to be affected by the report of the SIT, the Director General, Health Services is directed to issue Show Cause Notices along with copy of the Enquiry Report submitted by the SIT within two weeks from today to all the 42 candidates, who will be given one month time to submit their objections to the report. After considering the explanation submitted by the candidates, the Director General, Health Services shall submit his summary report to this Court on the next date of hearing.

List on 15.01.2019.

Let a photocopy of this order be placed on the files of connected cases.”

10. These orders are self-speaking and being simply reproduced for better appreciation alongwith narration of relevant events and developments. In view of the said orders and the events/ developments, I am of the opinion that the allegations have since already been addressed and whatever judicial measures were to be taken *qua* the same, have already been taken.

11. I may hasten to observe *qua* merits of allegations of the petitioners, if at all they are only confined *qua* respondents No.4 to 14 in CWP-7948-2010 i.e. only 11 selected candidates as is the pleaded case. Specific reference *qua* the same may be found in Para-14 (ii) of the petition i.e., CWP-7948-2010, which is extracted herein below:

“BECAUSE on verification of experience certificates of selected candidates by Civil Surgeons, it was expressly found that the experience certificates of respondents No.4 to 14 were either found to be false and fabricated or one or the other discrepancies were present. On that basis, it was suggested by the Civil Surgeons that these candidates shall not be made to join because of reasons mentioned by the Civil Surgeons in their Reports, but even then these candidates were made to join by the Department of Health.”

12. On a Court query, it transpires that with regard to respondents No.4 to 14, Civil Surgeon reports were sought and the same are also on record as

Annexure P-8 (Collectively) and after making requisite enquiries, it was found that allegations made by the petitioners were found completely unsubstantiated.

13. That apart, at this stage, even otherwise, equities heavily lay in favour of the selected candidates, who have been in service for the past 14 years as against the petitioners, who no doubt remained unsuccessful, but it was on their whistle blowing that this Court took cognizance of the allegations and subsequent action, as was found appropriate, has already been initiated *qua* the concerned appointees and it is left to the State functionaries to proceed further since show-cause notices have already been issued.

14. In the aforesaid premise, since necessary action has already been taken and on the other hand, Division Bench is still seized of the matter vide LPA-435-2015, though present writ petitions were later on de-tagged vide order dated 05.01.2021, I find no reason as to why collateral and parallel proceedings are required to be continued vide instant writ petitions.

15. Disposed of, accordingly.

16. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 22, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No