

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.101+241

CM-11325-CWP-2019 in/and
CWP-19387-2019 (O&M)

Date of Decision: 05.08.2022

Parveen Kumar and others

.... Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunil K.Nehra, Advocate
for the petitioners.

Mr. R.S.Budhwar, Addl. A.G.Haryana.

None for respondent No.2.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the challenge is to the recruitment process undertaken by respondent No.2 for the post of Assistant Professor (College Cadre) in the subject of English in pursuance to the Advertisement No.1/2019 (Annexure P-1).

The grievance of the petitioners in the present petition is that various posts of Assistant Professor (College Cadre) were advertised by Advertisement No.1/2019 and in the said advertisement, 81 posts were meant for Assistant Professor (College Cadre) in the subject of English . Out of the said 81 posts, 49 posts were meant for the general category. After the advertisement, the petitioners, who were eligible, applied and appeared in the written test conducted on 23.05.2019. After the said written test was conducted, there were certain objections with regard to the irregularities

committed and keeping in view the number of representations received by the Commission regarding the discrepancies, the said test was scrapped and a fresh test was held on 12.06.2019. The petitioners appeared in the said written test again and after the conduct of the said test, immediately filed the present petition raising a grievance that in the written examination, which was held on 12.06.2019 in respect of the posts of Assistant Professor (College Cadre) in the subject of English, most of the questions were from one guide book, which action of the respondents has caused prejudice to them and therefore, the said test should also be scrapped and a fresh test should be held for recruiting Assistant Professors (College Cadre) in the subject of English.

After notice of motion, the respondents appeared and filed a reply, wherein the respondents have mentioned that initially the written test was conducted in pursuance to the Advertisement No.1/2019 on 23.05.2019, which was scrapped keeping in view the objections raised and the fresh test was conducted on 12.06.2019. As per the reply, certain objections were received from the candidates who appeared in the said written test, which objections were sent before the Expert Committee comprising of Professors from reputed Universities of concerned subject and after the recommendations of the said committee, 10 questions were found to be incorrect and the same were deleted and benefits were given to all the candidates who appeared in the said test. With regard to the objections of the petitioners that most of the questions in the question paper were taken from one guide book, the stand of the State is that the questions to be asked in the written examination is the jurisdiction of the examining body keeping in

view the recommendations of the paper setter. Hence, once the questions were same for all the candidates, no grievance can be raised by the petitioners.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question which has been raised by the petitioners is that in the written test which was conducted by the respondents on 12.06.2019 for making appointment to the posts of Assistant Professor (College Cadre) in the subject of English, most of the questions were picked up from one guide book only and therefore, the written examination should be scrapped. It is within the jurisdiction of the examining body to set up the question paper keeping in view the recommendations made by the paper setter. Unless and until any prejudice is shown by a candidate in respect of the questions which have been put to him/her in the written test, the objections that the questions were taken from one guide book, unless shows prejudice, can not be accepted as a matter of right.

In the present case, the petitioners have not been able to show any prejudice caused to them while undertaking the written test held on 12.06.2019. In the absence of any prejudice shown, the objections being raised by the petitioners so as to pray that the written test held on 12.06.2019 be set aside, can not be accepted.

Learned counsel for the petitioners places reliance on a judgment of Single Judge of Rajasthan High Court rendered in the case of **Rewant Dan versus Rajasthan Public Service Commission and others,** **2012 (28) SCT 858** to contend that in somewhat similar situation, written

test was ordered to be scrapped. The said judgment can not come to the rescue of the petitioners in the present petition for the reason that the element of prejudice to a candidate is missing in the present case.

Furthermore, the selection process was undertaken by the respondents in the year 2019 and in the said process, the claim of the petitioners has been considered in accordance with law and the candidates who were found meritorious, have already been selected and joined. Since all the selected candidates are not party to the present petition and in case, the prayer of the petitioners is accepted, the candidates who have already been selected and joined, will be affected.

As per the settled principle of law, unless and until all the parties, who are likely to be affected by the decision of present writ petitions, have been arrayed in the petition, the same is not maintainable. Reliance in this regard can be placed on the judgment passed by Hon'ble Supreme Court of India in Civil Appeal No.3005 of 2000, decided on 27.04.2000 titled as State of Bihar versus Kameshwar Prasad Singh, wherein it has been observed that in the absence of persons likely to be affected by the relief prayed for, the writ petitions should normally be dismissed. The relevant paragraph of the said judgment has been reproduced as under:-

“22. It appears that the High Court totally lost sight of the fact that in his petitions filed from time to time Brij Bihari Prasad Singh had not impleaded any of his seniors as party-respondents. In the absence of persons likely to be affected by the relief prayed for, the writ petitions should have normally been dismissed unless there existed specific reasons for non-impleadment of the

affected persons. Neither any reason was assigned by the writ petitioner nor the Court felt it necessary to deal with this aspect of the matter. Ignoring such a basic principle of law has resulted in the supersession of 168 Inspectors and 407 Dy. SPs. The writ petition filed by Brij Bihari Prasad Singh being totally misconceived, devoid of any legal force and prayers made being in contravention of the rules applicable in the case deserved dismissal, which was unfortunately not done with the result that the interests of many seniors have been threatened, endangered and adversely affected. The appeal of the State has, therefore, to be allowed by setting aside the impugned judgment.”

Keeping in view the above, no ground is made out for interference and the present petition is accordingly dismissed.

However, as a matter of suggestion, respondent No.2 is requested that as selections to Class-I posts are being made, appropriate supervision should be there with regard to the conduct of the examination/selection process, so that such kind of grievances are not raised.

(HARSIMRAN SINGH SETHI)
JUDGE

05.08.2022
Maninder

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