

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

Sr. No.205

Date of Decision: 22.07.2022

1) CWP No.6317 of 2014

Rajender Kumar and others

.... Petitioners

Versus

State of Haryana and others

... Respondents

2) CWP No.11337 of 2014

Balor Singh and others

.... Petitioners

Versus

The State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajesh Bansal, Advocate
for the petitioners in CWP No.6317 of 2014.

Mr. Anurag Goyal, Advocate
for the petitioners in CWP No.11337 of 2014.

Mr. Kiranpal Singh, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both of them involve similar question of law.

The present petition has been filed by the petitioners with a prayer that that regular posts of Teachers on which Guest Faculty are working, which posts are not being treated as vacant, appropriate action be taken in respect of those posts so as to fill the same in accordance with law.

Further prayer of the petitioners is that the teachers who are not qualified to

hold the posts, appropriate order be passed terminating their services.

Another prayer of the petitioners is that Guest Faculty Teachers should not be allowed to continue further as they are back door entrants and their services should be terminated accordingly.

Keeping in view the prayers of the petitioners which have been stated hereinabove, the grievance of the petitioners is against the Guest Faculty Teachers who are discharging their duties in the State of Haryana. In case, the prayer of the petitioners is accepted, the Guest Faculty Teachers, who are already working, will be affected by the said decision and are even likely to be displaced from their jobs.

The settled principle of law is that 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.”

Further, till the affected parties are arrayed as respondents, no order can be passed at their back. In the present petition, no Guest Faculty Teacher, who are going to be affected by the outcome of the present petition, are party and hence, in the absence of the necessary/appropriate parties, the prayer of the petitioners as detailed hereinabove, can not be accepted.

Further, during the pendency of the present petition, the respondent-State of Haryana has created a statute by the name of Haryana Guest Teachers Service Act, 2019. The said Act governs the issue with regard to the appointment and continuance of the Guest Faculty Teachers. Once, the services and the appointment of the Guest Faculty Teachers have already been regulated, no grievance of the petitioners, as raised in the present petition, survives especially when the said Act is not under challenge.

Keeping in view the above, prayer of the petitioners as raised in the present petition does not merit acceptance and the same is dismissed.

It is made clear that in case, the petitioners have any grievance with regard to the operation of the Haryana Guest Teachers Service Act, 2019, they can avail appropriate remedy available to them with respect to the Act.

A photocopy of this order be placed on the connected file.

(HARSIMRAN SINGH SETHI)
JUDGE

22.07.2022
Maninder

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