

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

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**LPA-1074-2022 (O&M)
Decided on : 01.12.2022**

Vinod Kumar

....Appellant

Versus

State of Haryana and others

.... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. B.S. Patwalia, Advocate for the appellant.

Ms. Palika Monga, DAG, Haryana
for respondent Nos.1 to 3.

Mr. R.K. Malik, Senior Advocate with
Mr. Sunil Hooda, Advocate for caveator/private respondents.

G.S. Sandhawalia, J.

Challenge in the present Letters Patent Appeal is to the order passed by the learned Single Judge in CWP-24339-2021 titled *Manoj Kumar & others Vs. State of Haryana & others* alongwith other connected petitions, decided on 09.11.2022, wherein direction was issued to the State to complete the selection process against 668 posts which had become available, within a period of 2 months from the date of receipt of copy of the order.

The learned Single Judge noticed that the writ petitioners were not meritorious enough to be selected at the initial time of the selection process and the private respondents were more meritorious and appellant is one such respondent. However, they lacked basic qualification required to be selected and appointed to the post of Art and Crafts Teacher

keeping in view the decision of the Apex Court in **Devender Bhaskar & others VS. State of Haryana & others’ 2022 (1) SCT 51**, which arose out of the same Advertisement No.6 of 2006 dated 20.07.2006, wherein the diploma degree in Art and Craft issued by the Kurukshetra University was held to be not equivalent in the Art and Craft examination conducted by the Haryana Industrial Training Department. Resultantly, the judgment passed by the Coordinate Bench in **CWP No. 20630 of 2006** in **Suman Lata and others VS. State of Haryana and others**, had been set aside wherein relief had been granted to the candidates who were similarly situated as the appellant. It was noticed though that the review petition was pending consideration before the Apex Court, but once the issue had been decided and the interest of the school children which was of paramount consideration for their welfare and education, resultantly, it was held that merely because stay application is pending in the review would not be a ground to delay further directions.

The learned Single Judge recorded that notice is yet to be issued in the review applications which has been highlighted by Mr. Patwalia, but it was submitted that the statement was incorrect on factual aspect since notice had been issued on 30.03.2022 by the same Bench which had decided the case and the cases had been ordered to be listed in the open Court, but the review petition had not been taken up thereafter. The learned Single Judge also had protected the appellant and the private respondents by directing that any candidate who is selected and secures appointment they would be required to furnish an undertaking/ affidavit that he/she would be governed by the orders passed by the Apex Court in the review petition in **Devender Bhaskar’s case (supra)** and, therefore, allowed the writ petition.

Mr. Patwalia has argued on the issue that till the matter is decided by the Apex Court and the review petition is disposed of, the operation of the judgment passed by the learned Single Judge should be kept in abeyance.

In our considered opinion in view of Article 141 of the Constitution of India the same cannot be done, once the law has been settled by the Apex Court in **Devender Bhaskar (supra)**. The appellant and similarly situated private respondents were beneficiaries of the re-test which was conducted on 31.01.2021 in view of the fact that on an earlier occasion the result which had been declared on 25.03.2010 for the said 816 posts of Art and Crafts Teachers for the advertisement in question had been set aside by the learned Single Judge of this Court in **CWP No.18482 of 2010 ‘Suman Kumar Vs. State of Haryana and others’** decided on 20.02.2015 (Annexure A-3). Letters Patent Appeal had been dismissed on 10.11.2020 in **Vinod Kumar and others Vs. State of Haryana and others, 2020 (4) SCT 702 and SLP No.14481 of 2020 ‘Vijay Pal and others Vs. Mohan Lal and others’** was dismissed on 14.12.2020.

Accordingly, as per the directions issued examination was to be held in accordance with law and the original applicants also were entitled to be considered. The re-test was held on 31.01.2021 and the declaration of result had been challenged in **CWP No.8634 of 2021 ‘Ravinder Singh and others Vs. Haryana Staff Selection Commission and another’** which was decided only on 12.11.2021 by one of us (G.S. Sandhawalia, J.) by holding that there is no infirmity in the process which had been carried out. The judgment in **Devender Bhaskar (supra)** had come on 24.11.2021 on the equivalency aspect rendering 668 persons ineligible and it is stated that 148 candidates are now eligible. The same,

thus, led to filing of the writ petition on the ground that the selection process should be carried out in the light of the decision of the Apex Court in **Devender Bhaskar (supra)** and to revise the final result on 14.11.2021 by excluding the candidates who are not eligible. Resultantly, the writ petition has been allowed.

It is, thus, apparent that a large number of candidates have been rendered ineligible and who have now filed review applications before the Apex Court. Their interests have been protected by the learned Single Judge in a structured manner and the argument now raised that the recruitment process should be put on hold is not justified, keeping in view the fact that it is a selection of 2006 which is doing rounds. As pointed out from the record that there are as many as 3635 vacancies are available against 4822 sanctioned posts of Art and Crafts Teachers for Rest of Haryana, as per the information obtained under Right to Information Act, 2005 on 10.08.2022. The State is, thus, also enjoying the field day appointing contractual employees which do not serve the purpose in the right manner and, therefore, the learned Single Judge was well justified by holding that the education of the children is being held up. Merely because the learned Single Judge on an earlier occasion on 01.08.2022 had noticed that notice had been issued in the review petition, but while passing the said order it was held otherwise. The said interim order reads as under:-

“Replies on behalf of respondent No.3 (in CWP Nos.4985, 5347 and 3526 of 2022 and 24339-2021) have been filed in the Court. Same are taken on record. Copies thereof supplied to the counsel opposite.

Learned counsel for the petitioners argues that a direction be given to the respondent-State to shortlist the candidates, who are eligible as per the advertisement and the appointment be

given to them according to their merits against the advertised posts which are lying vacant.

Another set of candidates are those, who have obtained their diploma from the Kurukshetra University, Kurukshetra, which qualification is in dispute as of now whether or not the same can be treated as a valid qualification for considering them eligible for appointment to the post of Art and Craft Teacher. As of now, it is the conceded position that keeping in view the judgment of Hon'ble Supreme Court of India in Civil Appeal No.7031 of 2021, decided on 24.11.2021, the qualification of the diploma, being held by a candidate from the Kurukshetra University, Kurukshetra, has not to be treated as valid qualification.

Learned senior counsel appearing on behalf of such candidate submits that the review petition bearing No.154 of 2022 has already been filed before Hon'ble Supreme Court of India, wherein the notice has been issued so as to take up the review petition in open Court.

As of now, there are two sets of candidates, who claim appointments against advertised posts which are lying vacant. Before deciding their rival claims, the State is directed to file an affidavit as to whether, there is an emergent need of the Art and Craft Teachers to be appointed so that the students, for whom the teachers are to be appointed, do not suffer any prejudice.

Let the said affidavit be filed by the State giving opinion whether the issue needs urgent attention of this Court or not so that contention of both the parties could be decided.

Adjourned to 17.8.2022.

Photocopy of this order be placed on the file of connected case.”

The same does not entitle the appellant to get a stay on the recruitment process, which was not done by the Apex Court while issuing notice in the review petition and his interest had been adequately protected by the learned Single Judge. Even otherwise if the review petitions are allowed, the State will have to comply with the orders of the Apex Court, which is binding upon one and all. Even otherwise the appellant has no

vested right against the posts which had been advertised and only has a right of consideration as per the settled law. Resultantly, finding no merit in the present Letters Patent Appeal, the same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

01.12.2022
Naveen

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No