

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

116

CWP-2507-2023 (O&M)

Date of Decision: 08.02.2023

RITU

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks issuance of a writ in the nature of Certiorari quashing the order dated 14.11.2022 (Annexure P-18) passed by respondent No.2, vide which the candidature of the petitioner for the post of Trained Graduate Teacher (TGT) Science, Group-C, Service Department of Elementary Education Haryana, under Scheduled Caste (SC) Category, was rejected.

Learned counsel for the petitioner submits that the petitioner applied for the aforesaid post under the SC Category; that the written test was conducted on 07.02.2018; that the result was declared on 08.08.2018; that the shortlisted candidates, including the petitioner, were called for scrutiny of the documents on 23.08.2018, 24.08.2018 and 11.09.2018; that the petitioner appeared for scrutiny of documents on 24.08.2018 and that the petitioner was found ineligible, on the ground that the certificate of B.Ed (confidential result) dated 05.11.2015, appended by the petitioner along with the application form, was after the

cut-off date i.e. 12.10.2015. He further submits that, though, the petitioner had duly submitted her B.Ed. confidential result on 27.08.2018 vide diary No.6588, yet she was not called for the interview. Still further, it is submitted that the respondent-Department again issued a notice dated 04.09.2018, calling upon the absentee candidates and the candidates who were having specific directions from the High Court, for interview on 11.09.2018, but again the petitioner was not called.

Learned counsel for the petitioner further submits that aggrieved against the action on the part of the respondents, the petitioner approached this Court by way of CWP-25268-2018; that, on the direction of this Court, the petitioner was provisionally allowed to appear in the interview; that the result of the petitioner was called for in the Court; that on opening the result, it was found that the petitioner had secured 76 marks out of 85 marks in the written examination and 9 marks out of 15 in interview (total 85 marks); that the last selected candidate under the SC Category had secured 56 marks and that the said writ petition was disposed of by a Coordinate Bench of this Court on 03.12.2021 directing the respondents to consider the candidature of the petitioner for the post of TGT Science under the SC Category. The relevant extract of the order dated 03.12.2021 would read as under:-

'Keeping in view the facts and circumstances as above, this writ petition is disposed of with a direction to the respondents to consider the petitioner's candidature for the post of TGT Science in the S.C. Category, in terms of the decision of Hon'ble Supreme

Court in Priyanka's case (supra) and take action accordingly while revising the result consequent to the abovesaid decision'.

While placing reliance upon the judgment dated 01.09.2021 delivered by the Hon'ble Apex Court in Civil Appeal No.5065-5095 of 2021 titled as Haryana Staff Selection Commission vs Priyanka and others, learned counsel for the petitioner submits that the provisional/confidential result declared by the Universities before the cut-off date, is valid, which in the present case is 12.10.2015. The relevant extract from the judgment dated 01.09.2021 would read as under:-

'The short question which was raised before the High Court and also before us is as to whether the provisional/confidential result declared by the Universities, would be a validly declared result or not. The question has been considered by the High Court in detail and it has been held in favour of the candidates, In our view also, as long as the authenticity of the provisional/confidential result declared by the Universities is not in doubt, which in the present case has been confirmed by the Universities on the request made by the appellant/Commission, in view taken by the High Court is perfectly justified. It cannot be said that the respondents were not qualified as on the cut-off date, which was 12.10.2015, as the provisional/confidential result had been declared by the respective Universities in favour of the candidates prior to the said date and the applications were filled by the respondents well

within time, along with such provisional/confidential result. As such, to this extent, we are not inclined to interfere with the order impugned in these appeals.

Further reliance has been placed by the learned counsel for the petitioner on the written statement filed on behalf of the respondents-State in CWP-25268-2018, especially on para 11, which reads as under:-

'1 to 10. xxxxxxxxx

11. That it is worthwhile to mention here that the confidential result was opened by the candidate herself and as per her version it was uploaded with the application form. Under these circumstances, ho this result could be termed as confidential result. Hence, the said result is a nullity from the very inception and non-est in the eyes of law'.

I have heard the learned counsel for the petitioner.

Admittedly, on the direction of this Court, the petitioner was provisionally allowed to appear for interview on 24.08.2018. At the time of interview i.e. on 24.08.2018, the petitioner was not having the certificate of requisite qualification and accordingly, the same was not submitted with the authorities. The petitioner wrote a letter on 27.08.2018 requesting the Department to allow her to submit her confidential result. Furthermore, the cut-off date in the present case was 12.10.2015 and the certificate of B.Ed. possessed by the petitioner is dated 05.11.2015 i.e. after the cut-off date.

The case of the petitioner was duly considered by the respondent-Department and vide order dated 14.11.2022, Secretary Haryana Staff Selection Commission, Panchkula, rejected her claim. 'The

relevant extract of the order dated 14.11.2022, reads as under:-

'Whereas, in the present matter, the petitioner did not attach/provide the confidential result of B.Ed. Before the cut-off date as mentioned in the orders of the Supreme Court and further the certificate of B.Ed dated 05.11.2015 appended by the petitioner, at the time of scrutiny is after the cut-off date i.e. 12.10.2015, the closing date of submission of the application form. Therefore, the same cannot be taken into consideration. Hence, in view of the facts and terms mentioned in the advertisement and in terms of the decision of the Supreme Court in Priyanka's case, the petitioner has not been found eligible for the post in question'.

As far as the law laid down by the Hon'ble Apex Court in Priyanka's (supra), is concerned, it has been held by the Hon'ble Apex Court that the provisional/confidential result declared by the Universities before the cut-off date, is valid, whereas in the present case the confidential result is dated 05.11.2015, which is after the cut-off date i.e. 12.10.2015. Thus, the same is of no help to the petitioner.

The Hon'ble Apex Court in the case of Ashok Kumar Sonkar vs Union of Indian and others, 2007 (4) SCC 54, has held that a candidate not holding the requisite qualifications on the cut-off date, will be ineligible and cannot be considered at all and his selection and appointment will not only be irregular but non-est.

In view of the above, I find no merit in the present petition.

Dismissed.

08.02.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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