

In the High Court of Punjab and Haryana, at Chandigarh**Civil Writ Petition No. 5708 of 2023****Date of Decision: 29.03.2023**

Shikha

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**Present:** Mr. Sardavinder Goyal, Advocate
for the petitioner(s).Mr. Vishnav Gandhi, Deputy Advocate General,
Punjab.**Anil Kshetarpal, J.**

1. The petitioner prays for the following substantive reliefs:-

“(i) Issue an appropriate writ order or direction especially in the nature of Certiorari for quashing of the impugned selection/joining list (Annexure P-2) and (Annexure P-4) dated 12.01.2018 to the post of Master / Mistress social studies, whereby the candidates of reserved category higher in merits have not been considered against General Vacancies, being in violation of law laid down by the Hon'ble Supreme Court of India in Civil Appeal No. 3545-3549 of 2016 D/d on 18.10.2016 titled as Vikas Sankhala & Ors Vs Vikas Kumar Agarwal & Ors, because of which the fundamental rights of petitioner guaranteed under Article 14 & 16 of the Constitution of India for the appointment of the public post has been violated.

(ii) Issue an appropriate writ order or direction especially in the nature of Mandamus directing respondents to issue

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appointment letter to the petitioner if the name of the petitioner figured in the Zone of Selection to the Post of Mistress Social Studies under SC (R&O) Category against Advertisement dated 20.11.2015 (Annexure P-1) after recasting the merit list in accordance with the directions issued by this Hon'ble High Court in CWP No.22959 of 2016 titled as Gurjinder Singh and others Versus State of Punjab and another (alongwith other connected matters) and the directions issued by this Hon'ble High Court may kindly be made applicable to the petitioners as well. in view of the fact that petitioner is similarly situated and she was not aware about the pendency of cases before this Hon'ble High Court and was not aware about the technical irregularities/illegalities in the merit list prepared by the respondents and she came into knowledge about the judgment passed by this Hon'ble Court from social media after the final decision, not giving appointment to the petitioner in case she falls within the Zone of Selection amount of violation of her fundamental rights guaranteed under Article 14 & 16 of the Constitution of India, 1950."

2. In substance, the petitioner claims that the respondent be directed to consider her candidature for appointment to the post of Mistress. The relevant facts, in brief, are required to be noticed. A recruitment notice was issued on 20.11.2015 inviting the applications for 1500 posts of Masters/Mistress in the subject of Social Studies. The last date for submission of the application was 12.12.2015. The petitioner, being interested in the appointment, submitted her application. She belongs to the Scheduled Caste (R & O) category. After the completion of the selection process, the result was declared and the appointment letters were issued to the selected candidates. In the year 2016, the various writ petitions were

3. The learned counsel representing the petitioner admits that pursuant to the aforesaid selection, the last appointment was made on 12.01.2018 which was again subject to the decision of the pending writ petition. A bunch of 22 writ petitions was decided on 17.02.2023 with the following order:-

“1. A batch of 22 writ petitions (details whereof are at the foot of the order) has come up for final disposal.

2. In most of the writ petitions, the learned counsel representing the petitioners have highlighted the following three grievances:-

1. The candidates belonging to the reserved category who secured higher marks than the last selected candidate in the general category are required to be appointed against general category.

2. In view of the judgment passed by the Supreme Court in Vikas Sankhala and others Vs. Vikas Kumar Aggarwal, (2017) 1 SCC 350, the reserved category candidates who were granted relaxation of marks in the Punjab State Teachers Eligibility Test cannot be excluded from this exercise.

3. The names of certain candidates have appeared on multiple times in the same stream as well as in the different stream. Such candidates will consume only one vacancy.

3. The learned counsel representing the State of Punjab submits that the aforesaid exercise has already been carried out. He submits that 209 candidates from general candidates would be in excess. It has been pointed out that the recruitment notice was issued on 20.11.2015. There are only 99 writ petitioners out of which 30 candidates who make a mark in compliance with the revised merit list under point No.1 and 2 have already been adjusted, whereas, the remaining 69

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candidates are lower in merit than the last general category selected candidate.

4. *With regard to the last argument of the learned counsel representing the petitioners, Sh. Vinay Bubllani, IAS, Director General School Education, Punjab, has assured the Court that the aforesaid exercise shall be completed within a period of six weeks jointly with Sh. Tejdeep Singh Saini, PCS, Director Public Instruction (S.E.), Punjab, and necessary order will be passed. After completing the exercise, the appointment letters, if any, shall be issued to the eligible petitioners.*

5. *Since, a period of nearly 7 years have elapsed, therefore, this order shall not give opportunity to the other candidates who have never filed the writ petitions and the benefit of the order shall only be restricted to the petitioners.*

6. *Hence, the writ petitions are disposed of.*

7. *All the pending miscellaneous applications, if any, are also disposed of.”*

4. This writ petition has been filed on 16.03.2023. As noticed, this Court, keeping in view the facts and circumstances of the case, has specifically ordered that the order passed on 17.02.2023 shall not give an opportunity to the other candidates who never filed any writ petition till that point of time. The petitioner has slept over her rights over a long period of time. The selection, pursuant to the recruitment notice, is required to be finalized and completed within a reasonable time.

5. The learned counsel representing the petitioner relies upon the judgement rendered in ***Rattan Singh v. The State of Haryana (1995) 1 SCT 711*** to contend that before dismissing the writ petition on the question of delay, the Court is required to examine the facts of each and every case. It

would be noted here that in para 7, the Division Bench itself held that the

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Court may decline to give relief to a person only on the ground of delay if the cause of action accrues in his/her favour, he/she does not take the required action.

6. As already noticed, the petitioner has woken up from a deep slumber after a long period of seven years. It is evident that the petitioner was sitting on the fence. At this stage, it would not be appropriate to entertain a fresh round of litigation. Once the matter is stale and suffers from unexplained delay and laches, it would not be in the interest of justice to exercise the extraordinary jurisdiction. The exercise of jurisdiction, in the facts of the case, is the prerogative of the High Court, which is to be exercised sparingly and cautiously.

7. Keeping in view the aforesaid facts and discussion, no ground is made out to issue the writ. Hence, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

March 29, 2023
“DK”

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