

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

123

**CWP-5936-2023 (O&M)
Date of decision: 22.03.2023**

Raman Lal and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Anand Bhardwaj, Advocate for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of Certiorari setting aside the arbitrary action of the respondent in not exempting the condition of 50% marks in the written test under Selection Criteria dated 28.12.2020 (Anneuxre P-4) as eligible applicants are less than the posts advertised.

Learned counsel for the petitioners submits that advertisement No. 06/2006 was issued by respondent No.2 on 20.07.2006 for filling up 816 posts of Art and Craft Teachers; that the petitioners have passed two years Diploma in Art and Crafts from the Punjab State Technical Education Board and appeared in the written examination along with the other candidates, who have passed the Diploma in Art and Crafts from the Kurukshetra University, Kurukshetra through distance mode; that after interview, the result was declared on 25.03.2010; that the selection was challenged by some of the candidates before this Court; that said petitions were allowed and the selection was quashed vide judgment dated 20.02.2015 passed in CWP No. 18482-2010; that LPA preferred against the said judgment was dismissed on

10.11.2020 and even the SLP was also dismissed by Hon'ble the Supreme Court. It is further submitted that the appeal preferred by some of the selected candidates was dismissed by the Hon'ble Supreme Court on 15.12.2020; that in compliance of the judgment dated 15.12.2020, respondent No. 2 invited applications from the applicants who had earlier applied in response to advertisement No. 06/2006 including the selected candidates and that the applications were more than the advertised posts and that respondent No.2 vide notification dated 28.12.2020 (Annexure P-4) published the selection criteria of minimum 50% marks in written examination out of 200 marks, as qualifying marks to appear in the interview/viva-voce.

Learned counsel for the petitioners further submits that Hon'ble the Apex Court in Devender Bhaskar & Ors. Vs. State of Haryana and Ors., 2022 (2) PLR 644, has held that who had passed the Diploma in Art and Crafts from Kurukshetra University, Kurukshetra, in Distance mode were ineligible for the posts in question. Thus, he prays that by ignoring the condition of 50% marks in the written examination, the candidatures of the petitioners be considered for the posts.

Notice of motion.

On the asking of this Court, Mr. Rajesh Gaur, Addl. AG Haryana, accepts notice and submits that the posts were advertised in the year 2006 and the selection process has already been over. The candidates were asked to appear in the written examination and the candidates, who secured 50% marks were found eligible and as the petitioners could not secure 50% marks, their candidatures for the post had rightly been ignored. He further points out that the result was declared on 26.12.2022. In support of his contentions, learned State counsel relies upon the judgment rendered by

Hon'ble Supreme Court in Municipal Corporation of Delhi Vs. Surrender Singh and Ors., 2019 (8) SCC 67.

I have heard the learned counsel for the parties and have also gone through the case file.

Perusal of case file would reveal that at one stage, the candidates, including the petitioners, were asked to appear in the written examination and as per notification dated 28.12.2020 (Annexure P-4) published by respondent No.2, the selection criteria was of minimum 50% marks in written examination out of 200 marks, to qualify for interview/viva-voce and the petitioners could not secure 50% marks. Thus, this Court is of the view that the candidatures of the petitioners have rightly been ignored by respondent No.2.

Moreover, as per the law laid down in Municipal Corporation of Delhi's case (supra), the recruiting agency cannot be compelled to fill available posts even when persons of desired merit are not available.

(HARNARESH SINGH GILL)
JUDGE

22.03.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No