

2023:PHHC:068819

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

CWP-10287-2023 (O&M)
Date of decision: 11.05.2023

Pinky Kaur and others

....Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Parvesh Kumar Saini, Advocate for the petitioners

Mr.Vishnav Gandhi, DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. While filing the present writ petition, the petitioners pray for issuance of a writ in the nature of Certiorari to quash the action of the Education Department, Punjab, to the extent of not shifting the higher meritorious reserved category candidates to the open category.

2. The relevant facts, in brief, are required to be noticed, in order to comprehend the controversy involved. On 30.07.2021, a recruitment notice was published inviting the applications to fill up 6635 posts of the Elementary Trained Teachers in the Education Department, Punjab. The selection was based on a competitive recruitment examination. After declaration of the result of the examination, the first round of counselling took place and the petitioners herein, who belong to the reserved category, were placed in the waiting list. Learned State counsel has disclosed that all the posts in the open category candidates, numbered 2588 were filled up. As per the instructions issued by the State on 25.09.2017, meritorious reserved category candidates are

required to be adjusted against the vacancies of the open category. The State carried out the aforesaid exercise and selected 5615 candidates, who were issued appointment letters and were permitted to join in the month of July/August, 2022. Subsequently, in order to fill up unfilled posts a second counselling was held in December, 2022 and the candidates were selected.

3. The petitioners who belong to the reserved category claim that the State is liable to carry out the exercise afresh with respect to the entire selection in order to adjust the meritorious reserved category candidates while taking into consideration the unfilled vacancies of the General Category, which are sought to be filled up in the second counselling. In substance, the petitioners pray that the Government must notionally re-work the entire list in order to adjust the meritorious reserved category candidates against the posts of open category.

4. On the other hand, the learned State counsel, on instructions from Ms. Meenu Bala, Sr. Assistant, office of ERD, Punjab, Mohali, submits that in the first counselling session of the open category posts, 2588 candidates were selected. Hence, it would not be appropriate to disturb those who have already been appointed.

5. Hon'ble Supreme Court in **Rajiv Mittal vs. Maharishi Dayanand University (1998) 2 SCC 402** has held that while adjusting the meritorious reserved category candidates, the selection, which has already been made, should not be disturbed. In the present case, the first list was prepared in July, 2022 and the candidates have been appointed.

At the first instance, the appointing authority prepared a list of open category candidates while adjusting the meritorious reserved candidates in the aforesaid list. Once that exercise has been completed in the second counselling, it would not be appropriate to accept the contention of the learned counsel representing the reserved category candidates to direct the respondents to carry out the entire exercise once again.

6. In view of the aforesaid facts, no ground to issue the writ, as prayed for, is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

11.05.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE