

In the High Court of Punjab and Haryana, at Chandigarh**Civil Writ Petition No. 10375 of 2023****Date of Decision: 15.05.2023**

Paramjeet Singh

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.K.Malik, Senior Advocate
with Mr. Sandeep Dhull, Advocate
for the petitioner(s).

Mr. Vishnav Gandhi, Deputy Advocate General,
Punjab.

Anil Kshetarpal, J.

1. The petitioner prays for the issuance of writ in the nature of certiorari to quash the orders dated 09.02.2023 (Annexure P6) and dated 03.04.2023 (Annexure P7). On account of the pendency of the criminal case registered under Section 306 and 120-B of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) against the petitioner, his selection as a Science Master was cancelled before he was issued any appointment letter. In other words, the petitioner prays for the issuance of a writ in the nature of mandamus to direct him to appoint as a Science Master in the Government School located in the State of Punjab.

2. The learned senior counsel representing the petitioner first of all referred to the judgment of the Supreme Court in *State of Gujarat v. Suryakant Chunilal Shah (1999) 1 SCC 529* to contend that mere

registration of an FIR is not sufficient to deny appointment. This Court has carefully read the judgment. In that case, the respondent was compulsorily retired from his regular service in the public interest. In that context, the Supreme Court held that mere registration of a criminal case is not sufficient to dispense with the service.

3. The learned senior counsel further refers to the instructions dated 22.07.2021, enlisting the offences involving moral turpitude. He submits that the offence under Section 306 IPC does not fall in the aforesaid list. It would be noted here that the aforesaid instructions are with respect to the employees who have been convicted by the Court of a criminal offence and his services are sought to be dispensed with. Hence, the aforesaid instructions are also not applicable.

4. The learned senior counsel further relies upon the order dated 17.05.1994 passed by the Division Bench of this Court in *Vinay Pal v. State of Haryana etc. (Civil Writ Petition No. 1254 of 1994)*. It is an interim order passed by the Division Bench in the facts of the case.

5. The question that arises for adjudication is that “Can the State be directed to employ a School Teacher who is involved in a criminal case?” The situation will be entirely different if the employee is already in service. At this stage, the petitioner was merely selected. He was never appointed. The Supreme Court in *Commissioner of Police, New Delhi and Another v. Mehar Singh (2013) 7 SCC 685* held that it would not be appropriate for the Courts to issue a writ of mandamus unless the decision of the appointing authority was actuated by mala fides or was found erroneous and arbitrary.

Para No. 23 and 26 of the aforesaid judgment read as under:-

“23. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person's involvement in the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force.

24 and 25. XXXX XXXX XXXX XXXX

26. In light of above, we are of the opinion that since the purpose of departmental proceedings is to keep persons, who are guilty of serious misconduct or dereliction of duty or who

are guilty of grave cases of moral turpitude, out of the department, if found necessary, because they pollute the department, surely the above principles will apply with more vigour at the point of entry of a person in the police department i.e. at the time of recruitment. If it is found by the Screening Committee that the person against whom a serious case involving moral turpitude is registered is discharged on technical grounds or is acquitted of the same charge but the acquittal is not honourable, the Screening Committee would be entitled to cancel his candidature. Stricter norms need to be applied while appointing persons in a disciplinary force because public interest is involved in it.”

6. Similarly, a three Judges Bench in ***Avtar Singh v. Union of India (2016) 8 SCC 471***, the difference of opinion in the various decisions of the Supreme Court on the question suppression of information or submission of false information in the verification form on issues pertaining to involvement in criminal cases and the effect thereof was examined. In para 38.5 and 38.6 of the aforesaid judgment, the Court held that even if the candidate has made a declaration preferably with regard to the pending criminal case, the employer still has right to consider the antecedents and cannot be compelled to appoint the candidate. Similarly, in ***State of Madhya Pradesh and Others v. Abhijit Singh Pawar (2018) 8 SCC 733***, the Supreme Court held that unless the decision of the authorities concerned in rejecting the candidature of the selected candidate was, in any way, actuated by mala fides or erroneous for any other reason, the Court will not interfere.

7. Respectfully following the aforesaid view, this Court does not find it appropriate to issue the writ for appointing the petitioner as a School Teacher. Hence, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

May 15, 2023
“DK”

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