

**102-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-14966-2014 (O&M)

Date of decision: 15.02.2023

Hardaljit Kaur

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kapil Kakkar, Advocate for the petitioner

Mr. Vikas Arora, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The issue which arises for consideration is, “As to whether the respondents are justified in rejecting the candidature of the petitioner on account of the fact that her experience certificate was not countersigned by the District Education Officer (DEO), as required under the recruitment notice. The petitioner has applied in response to the recruitment notice issued in the year 2013 for filling up 264 posts of Head Masters/ Head Mistresses. As per the recruitment notice, a candidate was required to submit his or her application with the experience certificate, duly countersigned by the District Education Officer. The petitioner was working as a teacher in the Sacred Heart School, Samrala, which is affiliated to the Indian Council for School Education (hereinafter referred to as ‘ICSE’). Her candidature has been rejected on the ground that the experience certificate submitted by her is not countersigned by the District Education Officer. The ICSE Board operates at a pan India level. The Council conducts Indian School Certificate Examination, which is

treated as a valid and comparable examination at Matriculation and Senior Secondary Education.

2. On 11th October, 2022 after hearing the learned counsel representing the parties, the Court directed the respondents to consider the case of the petitioner in terms of the judgment dated 28th July 2017 passed in **CWP No. 10558 of 2014** titled as '**Isha Sharma vs State of Punjab and another**'. In compliance, the respondents have passed an order on 27th October, 2022, a copy whereof has been produced before the Court. The petitioner's candidature has been rejected on the following two grounds:-

- i) The counter signature on the petitioner's experience certificate is after the last date of submission of the application.
- ii) the experience certificate has not been signed by the concerned District Education Officer.

3. Heard learned counsel representing the parties at length and with their assistance perused the paper book.

4. Shri Kakkar, while relying upon the judgment passed in **Isha Sharma's case (supra)** submits that such clause, particularly in the context of the schools, which are affiliated to the Indian Council of Schools Education (ICSE) has been declared to be illegal, arbitrary and capricious. He relies upon the following observations made by the Court in the **Isha Sharma's case (supra)**:-

“The objection raised by the respondent authorities as regards the experience certificate not

having been countersigned by the District Education Officer is utterly frivolous. The requirement of countersigning by the concerned District Education Officer or by the competent authority is only to ensure the authenticity and genuineness of the teaching experience reflected in the certificate and relied upon by a candidate to claim weightage. Clearly, with regard to a school which is affiliated to the Council for the Indian School Certificate Examinations, the exercise of verification would lie within the competence of an official of the Council of the Indian School Certificate Examinations, New Delhi. The certificate produced by the petitioner has been countersigned by the Assistant Secretary of such council. To ignore such certificate, the respondent authorities had to conclude that the Assistant Secretary of the Council is not the competent authority as mentioned in the relevant clause of the advertisement defining selection procedure. That is not the view taken. The action of the respondent authorities is illegal, arbitrary and capricious.”

5. He further submits that the objection of the respondents that the petitioner's experience certificate was not countersigned by the competent authority before the cut-off date is also factually incorrect as is evident from the perusal of the Annexures P-9 and P-10, which are counter signed on 13th September, 2007 and 14th October, 2009 whereas the last date for submission of applications was 27th November, 2013.

6. This Court has considered the submissions of the learned counsel representing the petitioner. As regards the first argument of the learned counsel representing the petitioner that the present case is covered by the observations made by this Court in **Isha Sharma's case (supra)**, wherein it has been observed that though a Letters Patent Appeal is

pending, however, mere pendency of a Letters Patent Appeal will not result in overriding the judgment. The judgment shall still continue to have a binding effect.

7. As regards the next argument of the learned counsel representing the petitioner, the learned State counsel has failed to draw the attention of the Court to any experience certificate submitted by the petitioner, which was countersigned by the competent authority, after the cut off date i.e 27th November 2013.

8. Hence, keeping in view the aforesaid facts and discussion, the writ petition is allowed. The respondents are directed to consider the petitioner's candidature, in accordance with law, within a period of two months, from today.

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

15.02.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE