

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

206

**CWP No.29998 of 2018
Date of Decision : 29.9.2023**

*Yogita**..... Petitioner**versus**State of Haryana and another**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. S.K. Kaushik, Advocate, for the petitioner

Ms. Tanushree Gupta, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed seeking a writ of *certiorari* quashing the order dated 30.12.2013, Annexure P-4, passed by respondent no.2, whereby the petitioner's candidature for the post of Primary Teacher (PRT), category no.1, in response to advertisement no. 2/2012 dated 8.11.2012, Annexure P-1, has been rejected. Further, a writ of *mandamus* has been sought directing the respondents to consider the petitioner for interview.

2. Facts of the case in brief are, the respondents issued advertisement no.2/2012 dated 8.11.2012, inviting applications for 9870 posts of Primary Teachers (PRT). The last date/closing date for submission of the applications was 8.12.2012. The petitioner being eligible applied for the same as general category candidate. She submitted her application form within time and attached all the relevant documents therewith except certificate of Diploma in Education (D.Ed.). It was,

however, specifically mentioned that the petitioner cleared the said diploma in 2012 from the Board of School Education, Haryana, by scoring 998 out of 1200 marks. The certificate of diploma was issued the petitioner on 5.1.2013, after she cleared last/4th semester examination, held in October 2012.

2.1. The petitioner was called for scrutiny of documents on 13.12.2013, and submitted the certificate of diploma, dated 5.1.2013, establishing that she possessed the essential qualification. The respondents, however, did not accept the same, and rejected her candidature vide order/communication dated 13.12.2013, on the ground “D.Ed. after cut-off date”.

3. Learned counsel for the petitioner has contended that the petitioner’s candidature was wrongly rejected as she fulfilled the essential qualification of D.Ed., and had duly submitted the certificate to the respondents at the time of scrutiny of documents also. She was eligible and required to be considered for interview and appointment against the advertised posts.

4. Learned State counsel, on the contrary, contends that the petition has been filed after delay of about five years and, therefore, the petitioner cannot be considered for appointment. She further submitted that litigation pertaining to selections of Primary Teachers pursuant to advertisement no.2 of 2012, was finally put to an end, vide order dated 13.9.2022, passed by the Supreme Court in Civil Appeal no.7136 of 2022 titled *Vikas Kumar and others v. The State of Haryana and others*, with consent of learned counsel appearing for all the parties in all the matters, in the following manner:

28. In the above facts and circumstances and taking into consideration the stand of the State of Haryana as communicated by its learned counsel, we are of the view that in the present case this litigation of more than a decade could be put to a quietus and the mammoth exercise of holding the selections for 9870 posts in the year 2012 be given its full benefit. We pass the following order:

(i) The total number of advertised posts i.e. 9870 to be filled up first from the selected candidates declared in the result dated 14.8.2014.

(ii) In the event, the selected candidates from the above category do not join, then the remaining vacancies shall be filled up from the list of wait-listed candidates declared alongwith successful candidates on 14.8.2014.

(iii) After filling up of the 9870 vacancies as provided above, the 2233 candidates who qualified the HTET after the cut-off date, sometimes in June 2013 will be appointed as per their *inter se* merit enbloc below the above 9870 candidates.

(iv) In case, there still remain any wait listed candidates from the wait listed list of 14.8.2014, who could not be accommodated in the advertised posts of 9870, will be appointed enbloc as per their merit below the 2233 candidates.

(v) The seniority will be as per their merit position in their respective lists.

(vi) No dispute for seniority would be entertained of any candidate *inter se* different lists.

(vii) No claim for seniority or for any arrears would be entertained for any period nor worked by the candidates of any of the above lists.

(viii) Salary would be paid for the period, for which such candidates have actually worked but not paid salary after due verification of their working both from the records and physically.

(ix) The 2012 selections will stand closed with the above arrangement.

(x) Exercising our powers under Article 142 of the Constitution, we increase the number of advertised posts

beyond 9870 to accommodate the candidates as directed above and no more.

(xi) All the appeals are disposed of as directed above.

(xii) The impugned judgment shall stand modified to the aforesaid extent.

5. It is also stated by learned State counsel, on instructions from Superintendent, PRT (ART), Directorate of Elementary Education, Haryana, that the aforementioned order has been complied with and all the posts have been filled-up; there is no vacancy against which the petitioner's case can be considered.

6. Heard.

7. In the facts afore stated, merits of the petitioner's claim cannot be gone into, since the decade long litigation pertaining to selection of PRT teachers pursuant to the advertisement in question has been given a quietus by the Supreme Court by passing the afore mentioned consensual order dated 13.09.2022. Entertaining the instant petition will only amount to re-opening the selection, which is not permissible.

8. Besides, the petitioner has approached the Court after unexplained delay of about five years after rejection of her candidature, which itself renders the petition not maintainable.

9. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

29.9.2023

Ashwani

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