

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.248

Date of Decision: 18.12.2023

1)

CWP No.23467 of 2021 (O&M)

2023:PHHC:164674

Reetu Devi and others

Versus

.... Petitioners

State of Haryana and others

... Respondents

2)

CWP-23733-2021

2023:PHHC:164678

Sunil Kumar

Versus

.... Petitioner

State of Haryana and another

... Respondents

3)

CWP-24125-2021

2023:PHHC:164679

Manita Kumari

Versus

.... Petitioner

Haryana Staff Selection Commission and others

... Respondents

4)

CWP-5822-2022

2023:PHHC:164682

Rajbir and others

Versus

.... Petitioners

Haryana Staff Selection Commission and others

... Respondents

5) CWP-5877-2022 2023:PHHC:164684

Devender Singh and others Petitioners
Versus
Haryana Staff Selection Commission and another ... Respondents

6) CWP-24996-2021 2023:PHHC:164691

Nitu Rani Petitioner
Versus
State of Haryana and others ... Respondents

7) CWP-1989-2022 2023:PHHC:164694

Poonam and another Petitioners
Versus
Haryana Staff Selection Commission and others ... Respondents

8) CWP-2527-2023 2023:PHHC:164696

Parveen Kumar Petitioner
Versus
State of Haryana and others ... Respondents

9) CWP-27058-2022 2023:PHHC:164702

Archana Sehrawat Petitioner
Versus
Haryana Staff Selection Commission and others ... Respondents

10) CWP-27175-2022 2023:PHHC:164705

Anita Kumari Petitioner
Versus
Haryana Staff Selection Commission and others ... Respondents

11) CWP-3510-2023 2023:PHHC:164707

Sushila Kumari @ Sushila Devi and another Petitioners
Versus
Haryana Staff Selection Commission and others ... Respondents

12) CWP-15343-2023 2023:PHHC:164708

Suresh Kumar and others Petitioners
Versus
Haryana Staff Selection Commission and another ... Respondents

13) CWP-707-2022 2023:PHHC:164710

Dinesh Kumar and another Petitioners
Versus
State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Ms. Anu Chatrath, Senior Advocate with
Ms. Alka Chatrath, Advocate,
Mr. Nishant Maini, Advocate and
Mr. Nikhil Singh, Advocate
for the petitioners in CWP No.23467 of 2021.

Mr. R.S.Panghal, Advocate
for the petitioner in CWP No.23733 of 2021.

Mr. Anand Bhardwaj, Advocate for the petitioners in
CWP No.5877 of 2022 and CWP No.15343 of 2023.

Mr. Ravinder Bangar, Advocate for the petitioner(s) in CWP No.24996 of 2021 and CWP No.2527 of 2023.

Mr. R.K.Malik, Senior Advocate with
Mr. Samrat Malik, Advocate
for the petitioners in CWP No.24125 of 2021,
CWP Nos.5822, 27175 and 27058 of 2022.

Mr. Anil Mehta, Advocate
for the petitioners in CWP No.1989 of 2022.

Mr. Anil Kumar, Advocate
for the petitioners in CWP No.3510 of 2023.

Mr. Ashok Kaushik, Advocate
for the petitioners in CWP No.707 of 2022.

Mr. Ravinder Singh Budhwar, Addl. A.G.Haryana.

Mr. Nitin Kaushal, Advocate and
Mr. Sahil Kumar, Advocate
for respondent no.4-AICTE in CWP No.24996 of 2021.

TRIBHUVAN DAHIYA, J. (ORAL)

All the aforesaid petitions are being decided together since common questions of law on similar facts arise therein. Facts for deciding the cases are being taken from Civil Writ Petition No.23467 of 2021.

2. The petition has been filed *inter alia* seeking a writ of *mandamus* directing the third respondent/Haryana Staff Selection Commission (hereinafter referred to as ‘the Commission’), to consider the petitioners’ candidature for the posts of Art and Craft Teacher as per result declared vide notice dated 14.11.2021, Annexure P-15, since they are eligible for the same.

3. Facts of the case in brief are:

3.1. The Commission issued advertisement no.6 of 2006, dated 20.07.2006, inviting applications for 816 posts of Art and Craft Teacher

prescribing the following qualifications:

- (i) Matric from Haryana School Education Board or an equivalent qualification recognized by the Haryana School Education Board.
- (ii) Two year diploma in Art and Crafts examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognised by the Haryana Education Department.
- (iii) Knowledge of Hindi upto Matric standard.

3.2. The petitioners being eligible applied for the advertised posts. Their candidature was, however, rejected and were not interviewed on the ground that the two-year diploma in Art and Craft possessed by them from the deemed University, Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur (hereinafter referred to as 'JRN Vidyapeeth') was not the requisite qualification as per the advertisement, which required two year diploma in Art and Craft conducted by the Haryana Industrial Training Department. Therefore, they were not eligible for appointment against the advertised posts.

3.3. The petitioners challenged rejection of their candidature by filing a petition, CWP No.52 of 2007 titled *Krishan Kumar and others v. State of Haryana and others*. It was decided by the Division Bench, vide judgment dated 05.03.2007, holding that they are to be considered eligible for the advertised posts on the basis of qualification of two year diploma in Art and Craft from JRN Vidyapeeth, a deemed University. The judgment attained finality as the Special Leave Petition (SLP) filed against it was dismissed by the Supreme Court, vide order dated 27.02.2009.

3.4. The Commission proceeded with the selection process. However, the selection and appointments pursuant to the advertisement were challenged before this Court by filing a number of writ petitions, tagged

along with CWP No.18482 of 2010 titled *Suman Kumari v. State of Haryana and others*. These petitions were allowed by common judgment, dated 20.02.2015, whereby entire selection of Art and Craft Teachers was set aside. The Commission was directed to hold a fresh selection in accordance with law within five months. The judgment was upheld by the Division Bench in appeals, which were decided together by a common judgment, dated 10.11.2020, passed in LPA No.359 of 2015 titled *Vinod Kumar and others v. State of Haryana and others*. The Special Leave Petition, SLP (C) No.14481 of 2020 titled *Vijay Pal and others v. Mohan Lal and others*, filed against the common judgment was also dismissed by the Supreme Court, vide order dated 14.12.2020.

3.5. Thereafter, the Commission proceeded to hold the selection afresh, and issued public notice, dated 28.12.2020, for conducting written examination for the advertised posts, which was held on 31.01.2021. The petitioners cleared the test and appeared for the interview also. Final result of selection was notified on 14.11.2021, but theirs was withheld by stating that students of JRN Vidyapeeth were considered ineligible as the two year diploma in Art and Craft obtained by them from the said deemed University was not the requisite qualification as per circular dated 30.12.2020, Annexure P-16, issued by the All India Council for Technical Education (hereinafter referred to as 'the AICTE') in terms of directions issued by the Supreme Court in MA No(s).1795-1796 of 2017 in Civil Appeal Nos.17869-17870 of 2017 titled *Orissa Lift Irrigation Corporation Ltd. v. Rabi Sankar Patro and others*.

3.6. In these circumstances, the instant petition(s) were filed, seeking consideration against the advertised posts, being eligible.

4. Learned counsel for the petitioners have contended that the petitioners possessing diploma in Art and Craft from JRN Vidyapeeth have already been held eligible for the advertised posts by this Court, vide judgment passed in *Krishan Kumar* case (*supra*), therefore, their candidature cannot be rejected. Besides, the Supreme Court judgment in *Orissa Lift Irrigation Corpn. Ltd.* case (*supra*) has no application to the facts of the instant case, nor can the petitioners be considered ineligible on the basis of AICTE circular, dated 30.12.2020, issued in terms thereof. It has no concern with the issue at hand, as the judgment only pertains to validity of degrees and diplomas of engineering, etc. obtained through distance education mode, whereas the petitioners have been regular students of JRN Vidyapeeth.

5. *Per contra*, learned State counsel, by referring to the written statement filed on behalf of the Commission, contends that before declaring final result of the selection in question, some candidates brought to the Commission's notice the clarification/circular, dated 30.12.2020, issued by the AICTE, pursuant to directions issued by the Supreme Court in *Orissa Lift Irrigation Corpn. Ltd.* case (*supra*). Accordingly, the petitioners' diplomas were not considered valid and fulfilling the requisite qualification, as the same were through distance education/extension mode from the same deemed University/JRN Vidyapeeth whose degrees and diplomas were declared invalid by the circular. Therefore, the Commission has rightly excluded the petitioners from the selection being ineligible.

6. Heard.

7. It is not in dispute that the two-year diploma in Art and Craft obtained by the petitioners was initially not recognised as a requisite qualification for the advertised posts. The petitioners approached this Court by filing *Krishan Kumar* case (*supra*), wherein it was held that they cannot

be denied consideration for the advertised post on account of qualification of two-year diploma in Art and Craft from JRN Vidyapeeth, a deemed University. The relevant paragraphs of the judgment read as under:

4. Shri R.K.Malik, learned counsel for the petitioners has contended that the petitioners have passed two years diploma course in Art and Craft from Rajasthan Vidyapeeth, Udaipur which is a deemed University. It is contended that the question whether the diploma in Art and Craft obtained by the petitioners from Rajasthan Vidyapeeth is recognised or not, came up for consideration in Civil Writ Petition No.212 of 2004 titled as Sandeep and others v. State of Haryana and others in which the Division Bench of this Court has held that the diplomas from a recognised university is a duly recognised diploma and the petitioners would be eligible to be considered for the posts of Art and Crafts Teachers.

5. In the present case also, all the petitioners possess qualification of two years diploma in Art and Crafts from Rajasthan Vidyapeeth, Udaipur a deemed University. Therefore, the petitioners cannot be denied consideration for the posts of Art and Crafts Teachers.

6. In view of the above a direction is issued to respondent no.3 i.e. the Haryana Staff Selection Commission through its Secretary, to interview the petitioners, if they have not been interviewed so far. Even if the interviews are over, the petitioners shall be interviewed on a date to be fixed by respondent no.3. However, the petitioners shall be intimated about the date of interview as per the convenience of the

Commission. All the Civil Writ petitions, mentioned in para no.1 of the judgment, are accordingly allowed.

The judgment has attained finality, as SLP filed against it stands dismissed by the Supreme Court.

8. Despite the law laid down by the Division Bench, declaring the diploma in Art and Craft from JRN Vidyapeeth as requisite qualification for the advertised post, the petitioners have been considered ineligible on the basis of that very diploma. This *prima facie* amounts to violation of law laid down by this Court, as also the directions issued therein.

9. To justify their action, the respondents have placed reliance upon the AICTE circular, dated 30.12.2020, issued in terms of judgment in *Orissa Lift Irrigation Corporation Ltd. case (supra)*. Based upon that it has been contended that the petitioners' diplomas being through distance education mode cannot be recognised.

10. Undisputedly, the petitioners have been awarded two-year diploma in Art and Craft from JRN Vidyapeeth, and not a degree. The diplomas have been awarded through 'extension education' mode, as apparent from the certificates appended with the petition. This mode is not the same as imparting education to students through regular classes in the university; and as per dictionary meaning of the word 'extension education', it is a course 'offered by a university to people who are not studying for a degree there'. Accordingly, 'extension education' is nothing else but the mode of imparting education to students through distance education. And assertion by learned senior counsel for the petitioners that the diplomas were through regular education mode, is baseless and factually incorrect; besides, there is nothing on record to establish that the same were obtained by the petitioners as regular students in the deemed University.

11. However, the mode of education in awarding two-year diploma to the petitioners pales into insignificance in view of the judgment in *Orissa Lift Irrigation Corporation Ltd.* case (*supra*) as well as the clarification given vide AICTE circular, dated 30.12.2020. The judgment only holds that the Engineering diplomas and degrees awarded through distance education mode by the four deemed Universities mentioned therein, including the JRN Vidyapeeth, for the academic years 2001-2005, cannot be considered valid being in violation of the standards and norms for technical education laid down by the AICTE; nor can the employees be considered eligible for further promotions in service on that basis. However, the Court allowed an opportunity to the students to get the degrees re-validated by clearing the test to be conducted for the purpose by the AICTE and/or UGC. The judgment was later clarified by the Supreme Court in M.A.Nos.1795-1796 of 2017 in Civil Appeal Nos.17869-17870 of 2017, vide order dated 22.01.2018. The relevant paragraph of the order reads as under:

3. It is true, as is evident from paragraphs 34 and 46 of the judgment that the controversy in the present case pertained to validity of degrees in Engineering conferred by the Deemed to be Universities through distance education mode and this Court was not called upon to consider validity of diplomas conferred by such Deemed to be Universities. However, the advertisement issued by AICTE covers diploma courses as well. We therefore accept the submissions advanced by Mr. Dhruv Mehta and Mr. M.L.Verma, learned Senior Advocates and clarify that validity of such courses leading to diplomas was not the subject matter of the judgment.

12. Therefore, the clarification is categoric that the judgment and the directions issued therein pertain only to validity of degrees in Engineering conferred by the concerned deemed Universities through distance education mode, and that the Court has not considered validity of diplomas awarded by those Universities.

13. On the same lines, the AICTE issued a circular, dated 30.12.2020, to give effect to the directions given in *Orissa Lift Irrigation Corporation Ltd. case (supra)* which reads as under:

In this regard, it is informed that it has been the policy of AICTE not to recognise the qualification acquired through distance mode at Diploma, Bachelors and Masters level in the field of Engineering & Technology, Architecture, Town Planning, Pharmacy, Hotel Management & Catering Technology, Applied Arts and Crafts. The course in Management, Computer application and Travel & Tourism is recognised by AICTE.

The Hon'ble Supreme Court in MA No(s). 1795-1796 of 2017 in Civil Appeal Nos.17869-17870 of 2017 case pertaining to Orissa Lift Irrigation Corpn. Ltd. Vs. Rabi Sankar Patro and Ors., opined vide its judgment dated 22.01.2018 that the judgment dated 03.11.2017 for the courses leading to diploma was not the subject matter of the judgment while considering the validity of degrees awarded by these 4-listed Deemed to be Universities to candidates who were enrolled up to 2001-2005 for which AICTE-UGC conducted the examination or revalidating the Degree awarded by aforesaid Deemed to be Universities as per the directions of the Hon'ble Supreme Court.

AICTE as such has not given approval for conducting Diploma courses in Engineering through distance education mode to any technical institutions. Hence, AICTE cannot validate the diplomas awarded by these institutions. Hon'ble Court stated that Diploma course in Engineering is not under the purview of the aforesaid case.

14. Apparently, the circular only states, *'it has been the policy of the AICTE not to recognise the qualification acquired through distance education mode at Diploma, Bachelors and Masters level in the field of Engineering & Technology, Architecture, Town Planning, Pharmacy, Hotel Management & Catering Technology, Applied Art and Crafts'*. This refers to general policy of the AICTE, and does not, in any manner, declare the two-year diploma in Art and Craft awarded to the petitioners as invalid for want of recognition. Further, the circular has been issued in terms of the judgment in *Orissa Lift Irrigation Corporation Ltd. case (supra)*, and it has been clarified by the Supreme Court, vide order dated 22.01.2018, that the judgment was not for the courses leading to award of diploma. It only pertained to validity of degrees awarded by the four deemed to be Universities to the students enrolled between 2001-2005. The circular further refers to diploma courses in Engineering through distance education, and states that the AICTE has not given approval for conducting such courses to technical institutions, nor can it validate the diploma awarded by those institutions. But in the instant case, diploma awarded to the petitioners by JRN Vidyapeeth is not for any of the Engineering courses; instead, it is for Art and Craft, which was neither under consideration of the Supreme Court, nor did the AICTE circular issued in terms thereof deal with the same.

Accordingly, the circular only refers to diploma in Engineering through

distance education mode awarded by a technical institution, and does not in any manner invalidate the (petitioners') diploma in Art and Craft through extension/distance education mode from the said deemed University.

15. The Commission, therefore, could not have refused to consider the petitioners' diplomas as invalid qualification for the post. Firstly, as discussed herein above, the judgment in *Orissa Lift Irrigation Corporation Ltd* case (*supra*) or the AICTE circular did not deal with these diplomas. Secondly, the same had already been held to be the requisite/valid qualification for the advertised posts by the Division Bench in *Krishan Kumar* case (*supra*). Thirdly, no notice or explanation was sought from the petitioners before considering them ineligible. Fourthly, averments regarding objections said to have been received by the Commission regarding the petitioners' diplomas being invalid, are vague as neither its particulars nor even the date of objections, have been disclosed. Such indeterminate objections, *per se*, could not have been the basis to declare the petitioners ineligible especially when the Commission itself considered them eligible in spite of the judgment as well as the circular and allowed them to participate in the selection process up to the last stage of interview. Therefore, there is no escape from concluding that the Commission acted arbitrarily and whimsically in the matter, without ascertaining facts of the case or applying mind to the issue. This resulted in undue harassment to the petitioners and forced them into this litigation, which makes the Commission liable to pay costs.

16. In view of the discussion, all the petitions are allowed, and the respondents are directed to; (i) consider the petitioners eligible for the posts of Art and Craft Teacher advertised vide advertisement no.6 of 2006, as already held by this Court in *Krishan Kumar* case (*supra*); (ii) declare the

petitioners’ final selection result and consider them for selection and appointment(s) as per merit. In case marks secured by the petitioners are more than those of the last selected candidate(s) in their respective categories, they will be given appointment(s) with effect from the date other selected candidates have been so appointed, with all consequential benefits except salary, which will be paid to them from the date of joining the service.

17. These directions shall be carried out by the respondents within four weeks from receiving a certified copy of this order. The Commission is also burdened with costs of ₹1,00,000, which will be deposited with the Poor Patients Welfare Fund, PGIMER, Chandigarh, within the period stipulated above, and a receipt thereof shall be placed on the file of this case.

18. Pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

19. A photocopy of this order be placed on connected files.

(TRIBHUVAN DAHIYA)
JUDGE

18.12.2023
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes