

2024:PHHC:076887-DB



Neutral Citation No.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

LPA-1342-2024 (O&M)
Decided on : 29.05.2024

Rambir Singh & others

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr.Surender Pal, Advocate, for the appellant(s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-3200-LPA-2024

1. Application for condoning the delay of 3 days in filing the appeal is allowed in view of the averments made in the application duly supported by affidavit of appellant No.1, which is hereby condoned.

2. CM stands disposed of.

LPA-1342-2024 (O&M)

3. Consideration in the present appeal is to the judgment dated 13.03.2024 passed by the Learned Single Judge in CWP-5842-2024 whereby the writ petition was dismissed upholding the order dated 18.12.2023 (Annexure P-9).

4. The said order was passed on account of the fact that the earlier writ petition filed by the writ petitioners bearing CWP-24595-2023 whereby challenge had been raised to the order dated 18.10.2023 wherein the JBT

Teachers were being allotted various schools in the Districts concerned as per their merit and they had sought direction for consideration of the issue whether the allocation of JBT/PRT Teachers of ESM category has to be done. The Learned Single Judge, at that point of time, had accepted the prayer of the writ petitioners that the representation be decided since it was their case that allocation has to be done in a specific manner with preference to be given firstly to the ESM(General) and thereafter, the remaining vacant posts were to be given to the DESM (General) and DFF. Resultantly, the writ petition was disposed of to decide the representation by the Director, Department of Elementary Education, Haryana within a prescribed period. It is pertinent to notice that the earlier order dated 18.10.2023 was not interfered with.

5. Vide the impugned order dated 18.12.2023 (Annexure P-9) now passed, the Director had noticed that preference to the ESM category is only provided in the advertisement for the purpose of appointment and the selection process only. Once the appointment was made, all the three categories of ESM, DESM and DFF merged into one and allocation is to be done as per merit and there was no question of considering them separate and different from ESM category for the purpose of permanent allocation of the Districts of 2017 batch. Learned Single Judge has thus chosen not to interfere with the well reasoned order.

6. It has also been brought to our notice that information was being sought under the Right to Information Act, 2005 regarding whether there is any such policy and apparently, the respondents also, vide communication dated 18.04.2024 (Annexure A-1), verified this fact that there was no policy giving the priority to the ESM category. The writ petition was filed on the

basis of seeking a writ of mandamus. In the absence of any such legal right on the basis of any policy, as per the pleaded case, we do not see any tangible reason as to how the writ petition itself was maintainable in the first place as law regarding principle of mandamus is clear that there has to be a legal right which can be got enforced by the Court. In the absence of any such policy being referred to, we are of the considered opinion that the Learned Single Judge was well justified in dismissing the writ petition and accordingly, we do not find it fit to interfere with the same.

7. Resultantly, in view of the above discussion, the present appeal along with all pending application(s) are hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

29.05.2024
Sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No