



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 213)

(1) CWP-26714-2018 (O&M)
Date of Decision : 17.12.2024

Varinder Shukla

...Petitioner

Versus

State of Punjab and others

...Respondents

(2) CWP-13037-2021 (O&M)

Neeru Malik and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(3) CWP-27815-2018 (O&M)

Sonia Devi and another

...Petitioners

Versus

State of Punjab and others

...Respondents

(4) CWP-14636-2021 (O&M)

Kanika

...Petitioner

Versus

State of Punjab and others

...Respondents

(5) CWP-27814-2018

Sunil Sharma and others

CWP-26714-2018 (O&M) and
other connected cases

2024:PHHC:169532



2

...Petitioners

Versus

State of Punjab and others

...Respondents

(6)

CWP-8322-2019

Neha Sharma and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Khosla, Senior Advocate with
Mr. Yogender Verma, Advocate for the petitioners
in CWP-26714-2018, CWP-27814-2018, CWP-8322-2019 and
CWP-13037-2021.

Mr. R.K. Chaudhary, Advocate for the petitioner(s)
in CWP-14636-2021.

Mr. Vikas Singh, Advocate for respondents No. 3 to 5
in CWP-13037-2021 and CWP-14636-2021.

Mr. Vivek K. Thakur, Advocate
for respondent No. 6 in CWP-26714-2018 and
for the applicant in CM-16096-CWP-2021 and
CM-17319-CWP-2021.

Harsimran Singh Sethi J. (Oral)

CM-16096-CWP-2021 in CWP-26714-2018

Present application has been filed for impleading Mr. Rajesh
Chaudhary, Former President Municipal Council as respondent No. 6 in the
present petition.



Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Mr. Rajesh Chaudhary, Former President Municipal Council is allowed to be impleaded in the present writ petition as respondent No. 6 and the amended memo of parties attached with the present application is taken on record.

CM stands allowed.

CWP-26714-2018 and other connected cases

By this common order, six writ petitions, the details of which have been given in the heading, are being decided as all these petitions involve the same question of law on similar facts.

In the present bunch of petitions, the grievance of the petitioners is that the petitioners competed for selection to the various posts to be filled in the Shivalik College of Pharmacy, Nangal, District Ropar in pursuance to the Advertisement dated 31.10.2017, a copy of which has been appended as Annexure P-1 and despite the fact that the selection process was already over and the petitioners were selected, the respondents have cancelled the said Advertisement vide impugned letter dated 04.07.2018 (Annexure P-5) passed by the Director, Department of Local Government, which act on the part of the respondents is arbitrary. The prayer of the petitioners is that once, the selection process is completed and the petitioners are within the zone of selection, the petitioners should have been appointed rather than cancelling the Advertisement itself.

Upon notice of motion, the respondents have filed their replies, wherein, they have stated that qua the selection process undertaken, various



complaints were received by the Department of Local Bodies which is running the Pharmacy College in question and the same were got verified from the Vigilance Department of Local Government, wherein, certain glaring facts had come to the knowledge including selection of various relatives of the employees working in the Pharmacy College by unfair means as well as the allegation that the selection process was not transparent and the selection has been done by pick and choose method only and the candidates, who were very close to either the Counselor of the Municipal Council, Nangal or the employees of the Pharmacy College, were selected to be appointed.

Learned counsel for the respondents submits that keeping in view the report of the Vigilance Department of the Local Government, it was decided to cancel the Advertisement so that the selection could be made in a transparent manner.

Learned senior counsel appearing on behalf of the petitioners submits that once, there is no allegation of any favoritism against the petitioners, the selection of the petitioners could not have been done away with so as to cancel the selection process keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India, according to which where the selection process is over and the appointment is to be made, the selected candidates are required to be allowed to join the post and the appointment cannot be denied on frivolous ground by terming that the selection process was marked by irregularities.



I have heard learned counsel for the parties and have gone through the record with their able assistance.

The question which arises for the consideration in the present petitions is whether or not, the decision which has been taken by the respondents to cancel the Advertisement so as to hold the fresh selection is to be treated as arbitrary and illegal:

The said decision has been taken keeping in view the various facts which have been brought before the Director, Department of Local Bodies for appreciation including the report of the Vigilance Department given, according to which, the selection process which was undertaken was not fair and transparent and relatives of the employee were selected.

It may be noticed that as per the record, the selection in pursuance to the advertisement dated 31.10.2017 has been made to the teaching posts as well as to the non-teaching posts. Keeping in view the details of the candidates who have been selected many of them are related to the Principal, the Ruling Political Party or the Chairman of the Improvement Trust.

Though, the selection was to be made on the basis of the State Level Advertisement but all the selected candidates only belong to Nangal, District Ropar and that too, who were related to one or the other office bearer of a Ruling Political Party, which was ruling the State at the relevant time.

The Municipal Council in its reply as well as during the course of hearing has conceded the fact that out of the 33 selected employees, except



14, all the others are related to the officials/the political figures of the area concerned.

Not only this, before taking the impugned decision, an in-house enquiry was entrusted to the Vigilance Department of the Local Government. The Chief Vigilance Officer, who is the rank of Chief Engineer, has given a finding that there were certain irregularities and also illegalities including that the papers were leaked before examination. Further, it has been mentioned in the report that keeping in view the way the written test was conducted, the same does not inspire confidence of a transparent selection process. The said Vigilance report was dated 06.06.2018 and keeping in view the said Vigilance report, the Director, Local Government came to the conclusion that the selection process lacks transparency and is conducted with various irregularities as well as illegalities and decided to cancel the Advertisement.

There is no mala fide attached to the impugned order passed at the hands of the Director, Local Government. Once, there is no mala fide attached and the order passed by the Director, Local Government is supported by an in-house enquiry report, the appointment being sought by the petitioners on the basis of that the selection process, which according to the respondents was not fair and transparent, cannot be allowed.

Further, it is not a case where a decision has been taken without consideration into the various aspects of the selection process undertaken and the complaints received qua the said selection process. Further, the factum that the selected candidates were relatives of the Staff as well as the Principal



of the Pharmacy College and were also related to the various office bearers of the Municipal Council, Nangal has gone un-rebutted, hence the decision taken to hold that the selection process undertaken as not transparent enough so as to inspire confidence to issue appointment orders to the selected candidates, no interference is called for in this Court. Once, the competent authority after due application of mind has taken a decision which is supported by the evidence also, this Court will not sit in appeal over the decision of the competent authority to hold that in the opinion of the Court, some other decision could have been taken by the Director, Local Government.

Once, the decision taken is bona fide supported by reasons, the same needs no interference at the hands of this Court so as to direct that the selection process though contained various irregularities, should be taken to the logical end.

Further, learned senior counsel appearing on behalf of the petitioners has placed reliance upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 8613 of 1983 titled as ***Shankarsan Dash Vs. Union Of India***, decided on 30.04.1991 to say that as per paragraph 7 of the judgment, if the number of vacancies are notified and adequate number of the candidates are found fit, the candidates acquire indefeasible right to be appointed and the same cannot be illegitimately denied.

In the present petitions, the selection process was marked by various complaints and irregularities. Once, the selection process is not transparent, even as per the competent authority to make appointments and



the reasons have also been given in the report by the Vigilance Department to support the view that selection process was not transparent, which has been accepted by the competent authority, the judgment being relied upon by the learned senior counsel in *Shankarsan Dash's case (supra)*, which is entirely on different facts, is not at all applicable to the present case, keeping in view the facts and circumstances which are involved in the said petition.

Learned senior counsel for the petitioners further argues that once the tainted candidates are identified, the other untainted candidates should have been appointed. Though, certain candidates keeping in view their proximity with the Principal or the employees working as well as the office bearers of the Municipal Council which was managing the Pharmacy College, have been identified but there is a very serious allegation of paper leak and that too for a consideration.

Once, the said allegation has come and as per the report of the Vigilance Department, the written test conducted by the Guru Nanak Dev University does not inspire confidence, the tainted and untainted candidates cannot be separately identified so as to grant the benefit of appointment to the petitioners as being claimed in the present petitions.

Further, as per the judgment of the Hon'ble Supreme Court of India, the candidates cannot come to the Court to claim a selection process initiated should be taken to the logical end. The reliance can be placed upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.4150 of 2022 (Arising out of SLP (C) No.15749 of 2021) titled as *Employees State Insurance Corporation & Anr. Vs. Dr. Vinay Kumar &*



Ors., decided on 18.5.2022. As per the Hon'ble Supreme Court of India, the candidate does not have a legal right to insist that the recruitment process be carried to its logical end. The relevant paragraph No. 6 of the said judgment is as under :-

"6. The learned counsel has drawn the attention of this Court towards the Employees State Insurance Corporation (Medical Teaching Faculty Post) Recruitment Regulations, 2015 and his contention is that, as per the schedule appended to the Recruitment Rules, the Department can resort to direct recruitment only if the post cannot be filled up by promotion. The learned counsel for ESI Corporation has vehemently argued before this Court that Dr. Kamala has been promoted by order dated 12.3.2018 with effect from 19.4.2017, and therefore, no vacant post was available. The learned counsel has also categorically stated that promotion of Dr. Kamala was on account of Office Memorandum issued by Government of India, Ministry of Health and Family Welfare, CHS Division, dated 29th October, 2008, thereby she was given promotion under the scheme of Extension of Dynamic Assured Career Progression (DACP). This Court has carefully gone through the DACP Scheme. Paragraph 3 of the aforesaid Scheme reads as under:

"3. The above mentioned promotions under DACP Scheme will be made by this Ministry without linkage to vacancies. Other conditions for effecting promotions will be governed by the respective Recruitment Rules as amended from time to time and Department of Personnel and Training's instructions in this regard."

Keeping in view the said principle of law, the claim being raised by the petitioners to conclude the selection process so as to select them and



consequently appoint them on the post keeping in view the Advertisement dated 31.10.2017 (Annexure P-1) cannot be accepted.

No other argument is raised.

Keeping in view the above, no ground is made out for any interference by this Court in the present petitions.

Dismissed.

Pending miscellaneous application, if any, also stands disposed of.

A photocopy of this order be placed on the file of connected cases.

December 17, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No