

CWP-22788-2023

2024:PHHC:114701-DB



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

CWP-22788-2023

Date of Decision: September 03, 2024

**CHANDIGARH ADMINISTRATION THROUGH ITS SECRETARY
EDUCATION DEPARTMENT AND ANR**

..... Petitioners

Versus

GULISTAN AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Sanjiv Ghai, Advocate for the petitioners.

LISA GILL, J.

1. Prayer in this petition is for setting aside order dated 20.03.2017 (Annexure P3) passed by learned Central Administrative Tribunal, Chandigarh Bench (for short – ‘the Tribunal’) whereby candidature of applicant (respondent No. 1 in this petition) for appointment to the post of Trained Graduate Teacher (TGT) (Social Studies) under OBC category was rejected on the ground that OBC certificate issued by NCT, Delhi qua applicant was of ‘Gurjar’ category whereas this category did not exist in the Central list or UT list of OBC category. Category in Central list or UT list is ‘Gujjar’. She was, thus, treated as candidate under General category. Stand of Chandigarh Administration was found to be

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unjustified, therefore, respondents were directed to appoint applicant-respondent to the post of TGT at appropriate place as per her merit within a period of one month from the date of receipt of certified copy of the order.

2. Present writ petition has been filed challenging said order dated 20.03.2017 in September, 2023. Learned counsel for petitioner seeks to explain the delay by submitting that applicant was asked to submit her medical certificate vide communication dated 19.06.2017 itself but she never came forward till date. Applicant/respondent No. 1, till date, has not come forward for implementation/execution of order dated 20.03.2017. It is further submitted that entire selection in itself came under cloud due to leakage of question paper in respect to which FIR No. 128 dated 29.07.2016 was registered. Entire selection was cancelled by Chandigarh Administration. This action was challenged before learned Tribunal, which set aside the action of cancellation of entire selection.

3. CWP-20842-2019 and other connected writ petitions were filed by Chandigarh Administration challenging order dated 06.05.2019 passed by learned Tribunal. Writ petitions were partially allowed on 27.11.2019 whereby it was held that selection stands cancelled only qua those candidates against whom FIRs stood registered. Special Leave Petitions filed by Chandigarh Administration are still pending adjudication before Hon'ble the Supreme Court.

4. In the meanwhile, pursuant to a subsequent advertisement dated 21.10.2019 inviting applications for appointment to post of Clerks and Stenographers, another applicant/candidate, namely Sumit Bansal, submitted his application while relying upon similar certificate of OBC category 'Gujar' issued by NCT, Delhi. His candidature was rejected on the same ground. OA No. 1186 of 2022 titled as Sumit Bansal vs. Chandigarh Administration was filed by him.

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Reliance has been placed by said candidate on impugned order dated 20.03.2017 in OA No. 060/01093/2015 which led to filing of present writ petition.

5. It is yet again reiterated by learned counsel for petitioner that applicant/respondent No. 1 has not come forth since 20.03.2017 to seek appointment in terms of impugned order.

6. Having heard learned counsel for petitioner and keeping in view the fact that applicant/respondent No. 1 has not come forth for appointment to the post of TGT (Social Studies) in terms of order dated 20.03.2017, in our considered opinion, adjudication of the present writ petition shall be an academic exercise which is not called for, at this stage. Moreover, issuance of notice to respondent No. 1 in such a situation to pursue present proceedings shall be unjustified.

7. In the peculiar facts and circumstances, it is considered just and expedient to permit the petitioners to agitate all pleas available to them before the learned Tribunal in the pending OA No. 1186 of 2022 as referred to in para 4 above, which be considered by learned Tribunal in accordance with law without being influenced solely by order dated 20.03.2017 in OA No. 060/01093/2015.

8. Writ petition is, accordingly, disposed of with liberty as aforesaid to petitioners.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

September 03, 2024
Rts