



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

LPA No.180 of 2025 (O&M)

Date of Decision: 22.01.2025

Haryana Staff Selection Commission

.....Appellant.

Versus

Baljeet Singh and others

.....Respondents.

CORAM: ***HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA***
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Sanjeev Kaushik, Addl. A.G, Haryana
 for the appellant.

SANJEEV PRAKASH SHARMA, J.(Oral)

CM No.427-LPA of 2025

For the reasons mentioned in the present application, the same is allowed and the delay of 156 days in filing the appeal is condoned.

LPA No.180 of 2025

1. Learned State counsel for the appellant assails the order passed by the learned Single Judge on 16.07.2024 in ***CWP No.24128 of 2021*** titled as ***Baljeet Singh Versus State of Haryana and others*** whereby the learned Single Judge had directed to consider the candidature of the petitioner for appointment on the post of Art and Craft Teacher in general category which was kept vacant by the Court vide the interim order dated 29.11.2021.



2. Learned State counsel for the appellant submits that the prayer made by the writ-petitioner was to the effect of directing him to be considered under the ESM-General category as he had been earlier considered in the said category and had been appointed as a Drawing Teacher. He also submits that the certificate of ESM-General category had been produced, however, the same was after the cut-off date. Learned counsel appearing for the petitioner, during the course of arguments, did not assert his claim for consideration under the said category but prayed that the petitioner be considered under the general category post in view of the marks secured by him in the selection which were higher than the last candidate appointed under the general category.

3. Learned State counsel further submits that the course adopted by the learned Single Judge was unjustified. Since the prayer made in the writ petition was to consider the candidature of the petitioner for appointment against the ESM-General category, his candidature could not have been directed to be considered under the general category. He relies upon the judgment passed by the Hon'ble Apex Court in ***Chandigarh Administration Versus Laxman Rollers Flour Mills Pvt. Ltd., 1998(8) SCC 326*** wherein the Apex Court held that unless a relief is prayed for in the writ petition, the same cannot be granted by the High Court.

4. We have carefully considered the submissions advanced by the learned State counsel.

5. The petitioner, in his writ petition, prayed as under:-

(i) *Issuance of a writ in the nature of Certiorari*



quashing the final result dated 14.11.2020 (Annexure P-9) of the post of Art and Craft Teacher qua the ESM Category as the roll number of the petitioner does not find mentioned in the same despite securing 138 marks in the written examination itself.

- (ii) Issuance of a writ in the nature of Mandamus directing the respondent Commission to revise the final result dated 14.11.2021 (Annexure P-9) of the post of Art and Craft Teacher of the ESM Category and the roll number of the petitioner be recommended as a selected candidate of the post of Art and Craft Teacher in the ESM Category and thereafter, appointment letter be issued to the petitioner along with all consequential benefits.*
- (iii) Issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*
- (iv) Filing of the certified copies of Annexures attached with the writ petition may kindly be dispensed with and permission to file Photostat copies and extract copies of some of the Annexures may kindly be granted.*
- (v) Service of advance notice of the writ petition on the respondents may kindly be dispensed with.*

It is further prayed that during the pendency of the present writ petition, one post of Art and Craft Teacher in the ESM general category may be kept reserved for the petitioner, in the interest of justice.”



6. The petitioner participated in the selection process and he secured 144 marks. The last selected candidate in general category was put at cut-off 142 marks and the last wait-listed candidate was put at 140 marks. In *Saurav Yadav and others Versus State of Uttar Pradesh and others, 2021(4) SCC 542*, the Hon'ble Supreme Court has laid down the method and manner in which appointments are to be made where there are reservations available and it has specifically been mentioned that a person, who is from any of the reserved category would have to be first considered against the general category and if he is found meritorious, he would be first appointed in the said open/general category and thereafter, the others who are left out, would be then considered in their respective categories.

7. In other words, all the candidates are entitled for consideration for appointment in the general category. No specific prayer, therefore, is required to be made by any candidate to claim or consider him in general category on the basis of marks obtained by him. The specific prayers made, would be with respect to consideration for ESM-General category which has not been accepted by the learned Single Judge. This would, however, not mean that his candidature would be completely ousted and would not be considered under the general category.

8. We find that the directions issued by the learned Single Judge for considering the writ petitioner in terms of his own merit which is over and above the last candidate who has been considered for appointment under the general category, therefore, cannot be said to be unjustified. Even as per the prayer made in Clause (iii), the writ petitioner prays for to the



High Court to pass any other appropriate writ, order or direction which it may deem fit and proper in the facts of the case. Such prayer, therefore, includes prayer which was made by the learned counsel for the petitioner during the course of arguments and on that count, his writ petition cannot be ousted. The contention raised by the learned State counsel for the appellant, therefore, fails.

- 9. The present appeal is, accordingly, dismissed.
- 10. Compliance of the order passed by the learned Single Judge shall be made.
- 11. All pending civil misc. applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

January 22, 2025
Yag Dutt

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*