

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

112

CWP-27070-2019

Date of Decision : December 02, 2025

BALWINDER KAUR AND ANOTHER -PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Deepak Singh Saini, Advocate (Legal Aid Counsel) with
 Ms. Vamika Johar, Advocate
 for the petitioner No.2.

 Mr. Sahil R. Bakshi, A.A.G., Punjab.

 Ms. Isha Goyal, Advocate
 for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. Through instituting the present writ petition, the petitioners have knocked on the doors of this Court, seeking directions to the respondent(s) to consider their candidature for TET-2017 (Paper-I) under the BC Category instead of the General Category.

2. The gravamen of the petitioners' grievance is that, although they belong to the BC Category, their category was inadvertently selected as General Category while filling up the online application form for TET-2017 by the Cyber Cafe Operator. Consequently, they contested the examination under the General Category, securing 84 and 86 marks respectively, while the cutoff marks were 90 for the General Category and 82 for the BC and SC Categories.

3. Learned counsel for the petitioner No.2 contends that the

petitioners' future should not be prejudiced due to a *bona fide* error in selection of their category, more so when the error was committed not by the petitioners themselves but by a third party, namely the Cyber Cafe Operator. It is submitted that, had their candidature been considered under the BC Category, they would indisputably have met the prescribed cut-off of 82 marks, having secured 84 and 86 marks respectively. To fortify his submissions, he places reliance on the judgment of the Division Bench of the Delhi High Court in **W.P. (C) No. 9230 of 2022**, decided on 03.06.2022, titled "**Ms Charu Kain vs. High Court of Delhi**", wherein, considering a *bona fide* mistake attributable to a third party, permission was granted to convert the candidate's category from General to Scheduled Caste.

4. *Per contra*, learned State counsel, who is assisted by learned counsel for the respondent No.3, submits that the issue inhering the present writ petition is no more *res integra*. It is submitted that a Division Bench of this Court, while rendering the verdict dated 15.12.2014 in **CWP-23185-2014**, titled "**Usha Dhillon vs. State of Haryana and others**", has already considered all these aspects and held that such permission cannot be granted, that too at the belated stage, specifically when the result of the said examination has already been declared. Reliance is also placed on the intra court verdict dated 07.07.2015 drawn in **LPA-1910-2014**, titled "**State of Punjab and another Vs. Shaveta Kamboj**", the relevant portion whereof is extracted hereunder:-

"The argument that there was no relaxation for the candidates belonging to Other Backward Classes in the advertisement in the matter of fee or for any other purpose and

therefore, the respondent did not disclose that she belongs to Other Backward Classes is not tenable. The respondent applied as a General Category candidate though there was a column that 'Whether the candidate belongs to Other Backward Classes?', but once the respondent has chosen to apply and appear in the examination as a General Category candidate, she cannot claim benefit of Other Backward Classes after the result was declared. The relaxation is to the candidates who appeared as Scheduled Castes/Scheduled Tribes or Other Backward Classes candidates and not to a candidate who appeared as a General Category candidate but subsequently claims to be a candidate belonging to the reserved category.

Another argument raised by learned counsel for the respondent is that a Single Bench of this Court in CWP No.2998 of 2013 titled Baljeet Singh v. State of Punjab and others, decided on 22.05.2013, has granted benefit of relaxation of 5% marks to a candidate who appeared in the test as a General Category Candidate. A perusal of the judgment (Annexure P-8) shows that the candidate in the aforesaid case was offered appointment under the Backward Class category on the strength of marks obtained in the entrance test but the posting order was not issued. It is at that stage, the candidate invoked the writ jurisdiction of this Court while relying upon Shabir Khan's case (supra). It was held that the candidate is entitled to benefit of relaxation, he being a Backward Class category candidate.

Even if the State has accepted the aforesaid judgment, it will not confer any right on the respondent to claim benefit of relaxation. The respondent applied as a General Category candidate; therefore, there was no question of relaxation to such candidate. The judgment of this Court in Baljeet Singh's case (supra) in fact runs counter to the view now taken in the Division Bench. Therefore, the judgment of learned Single Bench cannot be said to be a correct enunciation of law.

Even otherwise, an illegality once committed cannot be allowed to be perpetuated. Reference may be made to judgment of Hon'ble Supreme Court reported as (1995) 1 SCC 745 titled

Chandigarh Administration and another v. Jagjit Singh and another. Still further, the said candidate has secured more marks than the respondent, therefore, no right of the respondent can be said to be suffered by appointment of such candidate.

In view thereof, we find that the order of learned Single Judge allowing the writ petition cannot be sustained. Thus, the same is set aside and the writ petition is dismissed.

Consequently, the present Letters Patent Appeal is allowed.”

5. This Court has heard the submissions advanced by learned counsel for the parties and perused the record.

6. In the present case, there is no wrangle with regard to the fact that the petitioners participated in the TET-2017 examination under the General Category up to the stage of declaration of result. Only upon failing to secure the minimum qualifying marks prescribed for the General Category, they raised the plea that the selection of their category was a *bona fide* mistake committed by the Cyber Cafe Operator. It is also pertinent to note that the petitioners subsequently attempted to compete in the same examination again, but were rendered ineligible on account of being overage.

7. Since the petitioners remained silent throughout the examination process and only after declaration of the result sought to rely upon the alleged *bona fide* error, this Court cannot, at this stage, grant the relief sought, particularly when the issue is squarely covered against them by the judgments (*supra*) of the Division Benches of this Court. Consequently, the yearned for directions cannot be passed and the instant writ petition is **dismissed**.

8. However, the petitioners shall be at liberty to, in case they

desire, make a representation with regard to their grievance before the authority concerned, which shall be considered and decided expeditiously in accordance with law.

December 02, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No