

IN THE HON'BLE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CWP No. 21576 of 2019

Jaivir Singh.

.....Petitioner

Versus

State of Haryana & Other.

.....Respondents

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(Rajeev Dudeja)

Secretary (Legal),

Haryana Staff Selection Commission

on behalf of Respondent No.3

Place : Panchkula

Dated: 15.03.2021

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**Short reply by Rajeev Dudeja, Secretary (Legal), Haryana Staff  
Selection Commission on behalf of Respondent No.3**

**RESPECTFULLY SHOWETH:**

1. That in the present writ petition the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to consider the claim of the petitioner under the EBPGC Category (as the petitioner wrongly considered in the General Category) on the post of PGT Political Science in Education Department Haryana and grant him appointment, being fully eligible in view of the Government Notification issued on dated 27.09.2013 (Annexure P-15) and Instruction dated 07.06.2017 (Annexure P-6) as the petitioner is holder of the EBPGC Certificate issued by the competent authority against the Advertisement No. 4/2015, dated 28.06.2015, Category No. 13 (Annexure P-1) w.e.f. the date when the other similar situated persons in same selection, who are lower in merit than to the petitioner, were appointed, as petitioner secured 106 marks without even the interview, where as last candidate in category of EBPGC secured 102 marks with interview, as 11 posts of EBPGC Category are still laying vacant with all consequential benefit.

2. That the petitioner is not entitled to invoke the extraordinary writ jurisdiction of the Hon'ble High Court under Article 226/227 of the Constitution of India by filing the present writ petition as no fundamental right of the petitioner has been infringed.
3. That Respondent-Commission has issued an Advertisement No.4/2015 dated 28.06.2015 for filling up various posts PGTs including 424 posts of PGT Political Science (Rest of Haryana) under category No.13. That the required educational qualifications for the said post is as under:-

**Eligibility:-**

a) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject.

(b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani.

**Note-**

The candidates those who are having/passed HTET till the date of interview after advertisement will be allowed for interview on the basis of acquiring HTET (Test) till the date of interview.

**E.Q.**

- i. M.A. Political Science with at least 50% marks and B.Ed. from Recognized University.

4. That in response to above said advertisement petitioner has applied for the post in question and was issued Roll No. 41302460 under General category. The Respondent-Commission conducted the screening test on 20.03.2016 for the post of PGT Political Science (Rest of Haryana) against Advt. No. 4/2015, Category No. 13 and declared the result of the said examination subject to the fulfillment of their eligibility conditions as per advertisement and Service Rules and called the shortlisted candidates including the petitioner for scrutiny of documents vide notice dated 22.01.2017, which was held from 23.02.2017 and 27.02.2017 to 06.03.2017. Petitioner appeared for scrutiny of documents on 04.03.2017 and was found not eligible due to his STET certificate dated 15.10.2008 which is not valid as its validity was expired as the same was more than 5 years old. The copy of attendance sheet for scrutiny of documents is annexed as Annexure

R-3/1.

5. That it is pertinent to mention here that in continuation of earlier notice dated 22.01.2017, 26.03.2017 and on the basis of written examination held on 20.03.2016 for the post of PGT Political Science (Rest of Haryana) for Secondary Education Department, Haryana against Advertisement No. 4/2015, Category No. 13, Respondent-Commission vide notice dated 28.07.2018 decided to call those candidates for scrutiny of documents from 27.08.2018 to 29.08.2018 who were earlier ineligible due to not having HTET or any other reason or were absent in scrutiny of documents earlier held from 03.03.2017 to 06.03.2017. Petitioner was again called for scrutiny of

documents and petitioner appeared for scrutiny of documents on 28.08.2018 and was found eligible. The copy of attendance sheet for scrutiny of documents is annexed as Annexure R-3/2.

6. That on the basis of written exam and scrutiny of documents, the Respondent-Commission issued a notice dated 17.09.2018 and called the shortlisted candidates equal to twice the number of vacancies for interview on 01.10.2018 for the post in question. Petitioner appeared for interview on 01.10.2018. The copy of attendance sheet for interview is annexed as Annexure R-3/3.

Before declaring the final result the Respondent-Commission has rechecked/re-scrutinized the documents of the petitioner and while checking it was found that the petitioner is ineligible due to overage and age relaxation cannot be given as attached experience certificate is not counter signed by the Director Elementary Education, Haryana.

7. That it is pertinent to mention here as per advertisement the upper age limit for the post of PGT Political Science was 42 years and it was clearly mentioned in the advertisement that qualification, eligibility condition, age and other documents will be determined with regard to last date fixed to apply online application form called for closing date given in the advertisement. As per matriculation certification of the petitioner, the date of birth of petitioner is 18.07.1973 and the petitioner was overage i.e. 42 years, 2 months and 3 days on the last date of submission of online application form i.e. 12.10.2015. It is submitted that in the advertisement it was clearly mentioned in note-3 that:-

*Note 3. Teachers working in privately managed Govt. Aided Schools, recognized schools and Government Schools shall be given age relaxation in upper age limit to the extent of service rendered by them as a teacher subject to a maximum of 5 years once for his/her appointment as per directions of Hon'ble Punjab & Haryana High Court, Chandigarh dated 01.06.2015 passed in CWP No. 20110 of 2014, Som Nath Vs. State of Haryana & Others and for such working teachers, upper age relaxation certificate from Head of the Institute is mandatory and must be verified by DEO & counter signed by Director of Secondary Education of the concerned State even for CBSE/Central Schools and Navodaya Vidyalaya.*

Petitioner has attached experience certificate dated 14.08.2006, 06.05.2008 and 22.05.2014 which were not countersigned by Director, Secondary Education, Haryana. Therefore, the same cannot be considered for granting age relaxation to the petitioner. The Respondent-Commission has already declared the partial result for the post in question has already been declared on 15.11.2018.

8. That the State Government has decided that in respect of all advertisements where result of SBC has been put on hold due to Court Orders, the Haryana Staff Selection Commission shall treat the SBC posts to be under the Unreserved/General Category. It is worthwhile to mention here that the Respondent-Commission has

issued a notice dated 02.05.2019, in continuation of earlier notice dated 17.09.2018 and called the candidates for interview on the basis of scrutiny of documents already done for consideration against the 21 posts belonging to General Category (earlier SBC Category). The result of SBC Category now converted in General Category has already been declared on 20.05.2020.

9. That the main prayer of the petitioner is that he belongs to EBPGC category as mentioned in Para No. 6 of the writ petition and he mentioned his category in the application form as General Category. He had obtained the certificate of EBPGC Category dated 14.06.2017. Therefore, his candidature is to be considered under EBPGC category.

In this regard, it is submitted that in the advertisement No. 4/2015 dated 28.06.2015, it was clearly mentioned that qualification/eligibility conditions, age and other documents (Except HTET) will be determined w.r.t. last date fixed to apply online application also called for closing date given in the advertisement.

*Further, it is clearly mentioned in the above said advertisement at page No. 10 & 11 in Note-I, II & III that:-*

**Note :- i) The benefit of reservation will be given only to those SC/BCA/BCB/ PHC/SBC/EBPG and ESM and outstanding sportsperson candidates who are domicile of Haryana State. The SC/BCA/BCB/PHC/SBC/EBPG candidates are required to submit SC/BCA/BCB/PHC/SBC/EBPG**

Certificate duly issued by the competent authority at the time of interview. Likewise the Outstanding Sports Person shall be required to produce the Sports Gradation Certificate as per Government instructions duly issued by the competent authority. DESM shall be required to produce the Valid Eligibility Certificate duly issued by the respective Zila Sainik Board at the time of interview.

ii) Qualification and other term and conditions of eligibility will be determined with regard to the last date fixed for receipt of online applications.

iii) Candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application. If on verification at any time before or after the written examination or interview or appointment, it is found that they do not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect their candidature will be cancelled.

Further, as per the advertisement, only online applications were invited and as per advertisement Annexure P-1 wherein it has been mentioned that:-

“A candidate whether he belongs to General or reserved category viz. SC, BCA, BCB, SBC, EBPg, ESM/DESM, PHC or OSP can submit only one online application form for a



particular category of post advertised. The special instructions for online applications as given on website [www.hssc.gov.in](http://www.hssc.gov.in) must be carefully read to help in understanding and filling in the application form. No offline form will be accepted. All the relevant columns of the application form should be filled in.”

The petitioner has filled his caste/category in the online application as General Category.

10. That it is worthwhile to mention here that the petitioner has not mentioned his category as EBPGC category in the application form. Therefore, his candidature cannot be considered under EBPGC category as it is amount to change of category which cannot be allowed at this stage when the final result for the post in question has already been declared. It is further submitted that petitioner himself admitted in the writ petition that he has applied for the post in question under General category. Petitioner did not apply under EBPGC Category as there were only 21 posts. He appeared in written examination, scrutiny of documents and interview as General Category candidate. Further, petitioner had obtained the certificate of EBPGC category on 14.06.2017 which is after the cutoff date for submission of online application form i.e. 12.10.2015. Therefore, he cannot be considered in EBPGC Category.

11. That it is further submitted that the Hon'ble High Court vide order dated 22.05.2018 passed in CWP No. 15119 of 2016 titled as Shashi Vs. State of Haryana and Others decided the similar situated

matter, the operative part of order dated 22.05.2018 is reproduced as under:-

*“Perusal of the advertisement (Annexure P-1) clearly shows that a candidate can apply only once for a particular category of post advertised. It also makes it clear that no offline form is to be accepted. Another condition included in the advertisement is that incomplete application form would be rejected. Thus, a candidate is required to be very circumspect while filling the application. Although the petitioner may have obtained the EBPg certificate before the extended date of submitting applications, but she chose not to apply under the same and once she failed to qualify now. She cannot take benefit thereof as she had applied under the general category. Had she applied for the EBPg category and had failed to attach the certificate alongwith the application, the case may have been different. The Division Bench judgment of this Court in Usha Dhillon (supra) does not support the case of the petitioner as in the said case the computer had committed a mistake and the same was permitted to be corrected. The judgment of the Supreme Court in J&K Public Service Commission (supra) makes it clear that once a candidate has chosen a particular category, he cannot change the same at a later date.”*

12. That it is further submitted that in a recent judgment dated 29.08.2019, the Hon'ble Supreme Court of India allowed Civil Appeal No. 6696 of 2009 titled as Rajasthan High Court Jodhpur & Another Vs. Neetu Harsh & Another pertaining to the issue of change

of category and relied upon the decision in the case of J & K Public Service Commission Vs. Israr Ahmad (2005) 12 SCC 498 wherein it was held that:-

*“We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for selection as a candidate entitled to get reservation. He did not produce any certificate along with his application. The fact that he has not availed of the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the preliminary examination as a general candidate and at the subsequent stage of the main examination he cannot avail of reservation on the ground that he has successful in getting the required certificate only at a later stage. The nature and status of the candidate who was applying for the selection could not be treated alike and once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make fresh claim. The Division Bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at a later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal. No costs.”*

13. That at this stage only short reply is being filed. However, the answering-Respondent will file detailed para wise reply

in case the necessity arises or if so directed to do so by the Hon'ble Court.

In view of the submissions made here in above, it is, respectfully, prayed that the present writ petition, being devoid of any merit, may kindly be dismissed.



(Rajeev Dudeja)  
Secretary (Legal),  
Place : Panchkula  
Dated: 15.03.2021  
Haryana Staff Selection Commission  
on behalf of Respondent No.3

**Verification:**

Verified that the contents of Para 1 to 13 of short reply are true and correct to my knowledge and based on the information derived from the official record, which is correct. No part of it is false and nothing material has been kept concealed there from.



(Rajeev Dudeja)  
Secretary (Legal),  
Place : Panchkula  
Dated: 15.03.2021  
Haryana Staff Selection Commission  
on behalf of Respondent No.3


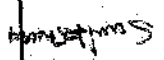


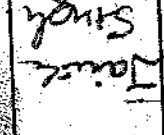





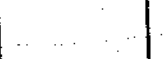
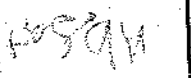


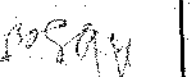
Annexure X-3/1

# Haryana Staff Selection Commission

Bays No.67-70, Sec-2,Panchkula  
 Bays No.67-70, Sec-2,Panchkula  
 Rest Of Haryana Advt. No.04/2015  
 PGT Political Science (Cat. No. 13)

DOS-04/03/2017

Secondary Education Department,Haryana  
 POS-Commission's Office,Bays No.67-70,Sec-2,Panchkula

Roll No.	Candidate Detail	Matric.Obt Matric Max.	10+2.Obt 10+2. Max	Grd.Obt Grd.Max	M.A. Obt M.A Max.	B.Ed. Obt B.Ed Max.	M.Phil Ph.D	H.TET Obt H.TET Max.	Exp.	Photo	Remarks Eligible/Not Eligible	Signature	Thumb Impression Male(LTI) Female(RTI)
41302457	SUNITA SHARMA F Name:-RADHEY SHYAM SHARMA Category:-General DOB:-28/06/1984 GENDER:-F	259 600	265 500	651 1200	550 1000	624 1000	N	N	Y		No H.TET		
41302460	JAIVIR SINGH F Name:-NAFE SINGH Category:-General DOB:-18/07/1973 GENDER:-M HARYANA DOMICILE:-Y	339 600	219 500	600 1200	441 800	634 1000	N	N	Y		37.81 More than five years Single		
41302462	SHRI KISHAN F Name:-TARA CHAND Category:-BCB DOB:-13/06/1973 GENDER:-M HARYANA DOMICILE:-Y	317 600	365 650	860 1800	465 900	465 900	N	N	N		208 400		
41302463	KAVITA DEVI F Name:-BHALE RAM Category:-General DOB:-25/01/1982 GENDER:-F HARYANA DOMICILE:-Y	320 600	288 500	746 1200	551 1000	628 1000	N	N	N				
41302464	NARVIR SINGH F Name:-RAM PARSAD Category:-General DOB:-13/05/1988 GENDER:-M HARYANA DOMICILE:-Y	319 600	263 500	638 1200	516 1000	609 1000	N	N	N				

Page:-1

# Haryana Staff Selection Commission

Bays No.67-70, Sec-2, Panchkula

Attendance Sheet for INTERVIEW the post of PGT Political Science (Cat No. 13) REST OF HARYANA Advt. No.04/2015

Committee:-1

PO:-Commission's Office Bays No.67-70, Sector 2 Panchkula

DOI-01/10/2018

Sr.No.	Roll No.	Candidate Detail	Mat.Obt	10+2.Obt	Grd.Obt	M.A.Obt	B.Ed.Obt	M.Phil	HTET Obt	Exp. Detail	Photo	Remarks	Signature	Thumb Impression Male(LTI) Female(RTI)
73	41302445	KAVITA KUMARI F.Name:-RAM NIWAS Category:-SC DOB:-20/08/1987 Haryana Domicile:-Y	389	600	369	650	1200	657	541	640	N	N	86	
74	41302446	RAJNI ARORA F.Name:-BANS RAJ Category:-General DOB:-03/04/1980 Haryana Domicile:-Y	216	600	289	500	1099	1800	533	900	N	N	93	
75	41302447	VINOD KUMAR F.Name:-JAI PAL Category:-General DOB:-23/02/1984 Haryana Domicile:-Y	283	600	255	500	1200	608	600	1000	N	N	94	
76	41302449	SANJAY KUMAR F.Name:-JMED SINGH Category:-General DOB:-30/04/1980 Haryana Domicile:-Y	343	600	676	1000	654	1200	457	800	N	N	98	
77	41302460	JAIVIR SINGH F.Name:-NAFE SINGH Category:-General DOB:-18/07/1973 Haryana Domicile:-Y	339	600	219	500	1200	600	441	800	N	N	227	
78	41302473	DALIP KUMAR F.Name:-RAJE RAM Category:-General DOB:-08/06/1974 Haryana Domicile:-Y	374	600	242	500	1200	525	504	900	N	N	110	