

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

**CWP No.10938 of 2016 (O&M)
Date of decision:29.07.2016**

Dharam Pal & others

... Petitioners

Vs.

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Jagbir Malik, Advocate for the petitioners.

...

TEJINDER SINGH DHINDSA, J.

The petitioners herein are working as JBT Teachers under the Haryana State Education Department.

Prayer in the instant petition is for issuance of a writ of mandamus directing the State to fill up the vacant posts of Elementary School Head Teachers.

Case set up by learned counsel is that the post of Elementary School Head Teacher is governed by the Haryana Primary School Education (Group 'C') District Cadre Service Rules, 2012 and each one of the petitioners is eligible for promotion to such post and inspite of a large number of posts lying vacant, the State Government is not filling up such posts. Counsel has also referred to document placed on record at Annexure P-2 i.e. memo dated 15.05.2003 issued from the office of the Director, Elementary Education, Haryana and addressed to the District Elementary Education Officers across the State and in which it has been observed that the exercise of promotion to the post of Head Teachers from the post of JBT Teachers should be conducted twice in a year i.e. in April and October.

Having heard counsel for the petitioner at length and having

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I attest to the accuracy and
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interference in the matter is called for.

Even though, there is no dispute with regard to the proposition that the right of the eligible employees to be considered for promotion would be virtually a part of their fundamental right under Article 16 of the Constitution of India and the guarantee of a consideration in the matter of promotion flows from the mandate of equality enshrined under Article 14 of the Constitution of India, yet a writ of mandamus in exercise of the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India cannot be issued mandating the State Government to fill up vacant posts. That is a matter which would be strictly within the domain of the State Government/Appropriate Department. It is not the case made out on behalf of the petitioners that the vacant posts of Elementary School Head Teachers are not being filled up on account of any oblique motive/consideration.

No inference in the matter is called for.

The writ petition is dismissed.

It is, however, observed that as and when the State Government decides and undertakes the exercise of filling up the vacant posts of Elementary School Head Teachers, such exercise would be carried out strictly in accordance with law and all eligible JBT Teachers would be considered including the present petitioners subject to their being eligible under the statutory rules governing appointment to the posts in question.

Disposed of.

29.07.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

i) Whether speaking/reasoned? Yes

ii) Whether Reportable? No