

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P No. D – 1209 of 2019

Before:-

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Hearing of case

For hearing of main case

Date of hearing: 22-03-2022

Date of decision: 22-03-2022

Mr. Ghulam Shabbir Shar, Advocate for the Petitioners
Mr. Shahryar Imdad Awan, Assistant Advocate General

ORDER

Muhammad Junaid Ghaffar, J:- Through this Petition, the Petitioner has sought the following prayers:-

- (a) That this Honourable Court may graciously be pleased to declare the act of respondents while not complying with the notification dated 22-05-2017 issued by competent authority is illegal, unlawful, unconstitutional and contrary to law.
- (b) To direct the respondents to comply with the notification dated 22-05-2019 and stop them from violation of Article 25 of Constitution.
- (c) To grant any other relief, which this Honourable Court deems fit and proper in circumstances of the case.
- (d) To restrain the respondents and their subordinates not to appoint any other persons in the area of Nara Taluka in the violation of notification dated 22-05-2017 till the final decision of the petition in hand.
- (e) Any other relief which this Honourable Court deems fit and proper.
- (f) To award any other relief.
- (g) To award the costs of this Petition.”

2. Notice was ordered and comments have been filed by the Respondents including Respondent No.4. Today we have confronted the Petitioners’ Counsel as to the comments filed by the Respondents and as to the relief(s) being sought by the Petitioners and in response, learned Counsel submits that as per Recruitment Policy, 2017 (para-14 thereof) a different criteria has been prescribed for candidates coming from hard areas including Nara Taluka from

which the Petitioners belong and, therefore, notwithstanding the fact that the Petitioners had failed in the written test they were entitled to the relief as per para-14 above and ought to have been granted grace marks by the Respondents.

3. We have heard the learned Counsel for the parties and perused the record.

4. Para-14 reads as under;-

“14. CANDIDATES SELECTION FOR HARD AREAS.

The Government aims to provide access to schooling to all children at their door step and to ensure implementation of Article 25-A. The induction of school specific teachers is the major step to address this challenge. During the recruitment round-III, all vacant positions could not be filled in Thana Bula Khan, Kati Bander, Kharo Chhan, Nara and Saleh Pat because candidates could not pass their written test and other candidates could not be included due to policy restrictions.

In case if during the round-IV, the required number of the candidates of above areas do not qualify the written test or do not possess the required qualification for available vacancies in schools or Taluka, then in such situation the passing marks of candidates (of the above mentioned areas) will be relaxed through notification by the School Education Department after such approval from the Chief Minister Sindh. The hard areas are declared as under and no other area can benefit from relaxation Thana Bola Khan Taluka

- i. Thana Bola Khan Taluka
- ii. Keti Bander Taluka
- iii. Kharo Chhan Taluka
- iv. Nara Taluka
- v. Saleh Patt Taluka”

5. Perusal of the aforesaid para of the Policy in question reflects that though a concession could be given to candidates who come from hard areas as notified therein, however, such relaxation is only by way of a notification after approval of the Chief Minister of the Province. Admittedly, the Petitioners have failed to clear the test, whereas, on the contrary as per the list attached by the Petitioners themselves at least 11 candidates had passed the written test from the same area, whereas, 02 others though did not pass, but were even above to the Petitioners. In that case, on the face of it the concession and relaxation as

notified by para 14 of the Policy would not be attracted. If 11 people can pass the test from the same area, then perhaps those who have failed cannot be granted the grace marks, as contended. If the situation would have been that no one had passed from the hard areas in question, then perhaps the Government could have taken a decision to accommodate such candidates. It is not the case anymore. Moreover for vacant posts further process has already been initiated, hence in our considered view, no case for indulgence is made out. Accordingly, the Petition being misconceived is hereby dismissed.

Judge

Judge

ARBROHI