

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA-1872/2017
MA-2040/2017**

New Delhi this the 25th day of May, 2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Mukesh Kumar Saini, 27 years
S/o Babu Lal Saini,
R/o Nidhivan Nagar,
New Mandi Road,
Dausa, Rajasthan.
2. Rukmani Kumari, 27 years
D/o Madan Lal,
R/o B-8, Dayal Bagh, Faridabad.
3. Pritam, 25 years
S/o Mahender,
R/o Malviya Nagar,
Gali No. 3, Sonipat-131001.
4. Mr. Vikas, 26 years
S/o Subhash Chand,
R/o L-22/78, Street-9,
Jai Prakash Nagar, Ghonda,
Delhi-110053.
5. Priyanka, 28 years
D/o Vindeshwar Singh,
R/o House No. 5/8, Shivpuri,
Meethapur Ext., Badarpur,
New Delhi-110044.
6. Meenakshi, 31 years
D/o Dharam Pal Singh,
R/o C-6/34, Kabir Nagar,
Shahdara, Delhi-110094.
7. Urvashi Jain, 26 years
D/o Mukesh Jain,
R/o B-38, Overseas Apartments,
Sector-9, Rohini.

8. Mannu, 27 years
S/o Mukesh Kumar,
R/o 18/559, Basant Vihar Colony,
Near Saraswati School, Badli Road,
Bahadurgarh, Haryana-124507.
9. Sajida, 25 years
D/o Shmed Shah,
R/o B-2/455, Nand Nagri,
Delhi-110093.
10. Jyoti Yadav, 26 years
D/o Surinder Singh Yadav,
R/o Dwarka Sector-8, Near Excel
Automobile Pole No. 33.
11. Jyoti Singh, 26 years
D/o Satyapal Singh,
R/o C-2, Custom Staff Quarters,
Phase-2, Noida-201305.
12. Rahul, 22 years
S/o Murari Lal,
R/o VPO- Kadma The Badhra Distt.
Bhiwani.
13. Sohit Duhan,
Sunil Kumar Duhan,
R/o 249/4, Hari Nagar Line Par,
Bahadurgar Distt. Jhajjar,
Haryana.

.... Applicants

(through Ms. Anuradha Dixit, Advocate)

Versus

1. Kendriya Vidyalaya Sangathan through
Its Commissioner,
Office at-18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
2. Central Board of Secondary Education
Through its Chairman,
Shiksha Kendra, 2, Community Center,
Preet Vihar, Delhi-110092.

.... Respondents

ORDER (ORAL)

Sh. Shekhar Agarwal, Member (A)

MA-2040/2017 has been filed by the applicants for joining together in one application. For the reasons stated in the application, the same is allowed.

2. This O.A. has been filed seeking the following relief:-

- “(i) May quash and set aside the exam conducted by the respondents on 17.01.17 due to the illegality of the same and order the conduct of a new exam with a question paper set within the scope of the syllabus to ensure that a fair chance is given to the applicants.
- (ii) In the alternative, the Hon’ble Tribunal may direct the Respondents to make allowance for the marks of the questions which were out of syllabus and release a new merit list on the basis of revised marks. On the basis of this, the applicants must be given a fair chance to appear in the interview.
- (iii) It is humbly prayed before the Hon’ble Tribunal to grant a stay order on the conduct of the interviews starting from 29.05.17 while this application is being decided to avoid any injustice to the applicants Or in the alternative the applicants be allowed to participate in the interview.
- (iv) May please to allow the OA with cost.
- (v) May pass any further orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

3. Briefly, the facts of the case are that the applicants were candidates for the post of PRT (Primary Teacher) Exam conducted by the respondents on 07.01.2017. They appeared for the same.

Their grievance is that many of the questions asked in the aforesaid exam were out of syllabus.

4. We have heard learned counsel for the applicants Ms. Anuradha Dixit. We find that in this case the applicants appeared for the examination on 07.01.2017. They, however, waited for the result of the written examination to be declared. When they came to know that they have not been called for interview scheduled to be held on 29.05.2017, they have approached this Tribunal. Thus, they have taken their chance of being selected in the examination and having been declared unsuccessful in the same, they are questioning the examination itself. This is contrary to the law laid down by Hon'ble Supreme Court in the case of **Madras Institute of Development Studies Vs. K. Sivasubramaniyan**, (2016) 1 SCC 454, in para-19 of which the following is laid down:-

"19. Be that as it may, the respondent, without raising any objection to the alleged variations in the contents of the advertisement and the Rules, submitted his application and participated in the selection process by appearing before the Committee of experts. It was only after he was not selected for appointment, turned around and challenged the very selection process. Curiously enough, in the writ petition the only relief sought for is to quash the order of appointment without seeking any relief as regards his candidature and entitlement to the said post."

While delivering this judgment Hon'ble Supreme Court have taken note of several pronouncements of the Apex Court on this issue in which the same view has been reiterated.

5. In view of the law laid down by Apex Court, this O.A. is not maintainable and is dismissed in limine.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/