

Administration and leave the matter there. The Administration has taken a stand that the sale of immovable property in an area which is not controlled by the Notified Area Committee is controlled by it but the same is governed by different set of Rules known as The Capital of Punjab (Development and Regulation) Act, 1952 (hereinafter to be referred as the Act of 1952). Under the aforesaid Act of 1952 and the Rules made thereunder, specified authorities have been mentioned who alone can deal with the sale of sites and but for the modes prescribed under the Act and the Rules, no other method is at all permissible for the sale of land, be it by way of allotment, auction or any other method. As observed earlier, we do not wish to go into this controversy and leave it open to the petitioners to make out a case before the authorities under the Act of 1952 on the basis of letter Annexures P/2 and P/4 if it is permissible under the law. In so far as respondent Notified Area Committee, Mani Majra is concerned, the claim of the petitioners for allotment of land so as to establish modern hospital on the basis of promissory estoppel is not at all made out. Not only that no promise at all was made by the Notified Area Committee to the petitioners but also the Committee had necessarily to deal with the case of the petitioners under the provisions of the Punjab Municipal Act and letters i.e. Annexures P/1 and P/4 being only in the nature of recommendations were not binding upon the Committee.

(13) Finding no merit in the writ petition, we dismiss the same leaving, however, the parties to bear their own costs.

J.S.T.

Before : Hon'ble J. L. Gupta, J.

KULDEEP KAUR,—Petitioner.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 2820 of 1992

August 31, 1992.

Constitution of India, 1950—Art. 226 and 227—Recognition of 2 years JBT Diploma conducted by Himachal Pradesh—Vide letter dated May 18, 1989 JBT course from Himachal Pradesh recognised—Subsequent course not recognised by Punjab Government,—vide

letter dated February 4, 1992—Petitioner appointed on August 14, 1989, however, appointment not approved—Petitioner threatened with termination—Action of respondents held unfair—Decision to have prospective effect—Decision of State Government cannot result in invalidating appointments already made.

Held, that on a perusal of the record of the case, it appears that,—*vide* letter dated May 18, 1989, the Director of Public Instructions had informed various officers that the Punjab Government has recognised the J.B.T. Course “passed from the Himachal Pradesh Government.....”. The petitioner was appointed after the issue of this letter on August 14, 1989. Even if, subsequently the State Government has taken a decision not to recognise the diploma awarded by the Himachal Pradesh Government, its decision can have only prospective effect and govern appointments made after the said decision. The decision of the State Government cannot result in invalidating the appointments already made. Nor it would be fair for the State Government to decline to grant approval in cases where appointments were made when the letter dated May 18, 1989 was in operation.

(Para 4)

D. V. Sharma, Advocate, for the Petitioner.

Charu Tuli, A.A.G., Punjab, for the Respondents.

ORDER

Jawahar Lal Gupta, J. (Oral)

(1) The petitioner qualified her J.B.T. examination from Himachal Pradesh in the year 1968. On August 14, 1989, she was selected and appointed as a J.B.T. Teacher at S.D. High School, Anandpur Sahib (respondent No. 5). The examination passed by her had been recognised by the Punjab Government. This fact is evident from the letter dated May 18, 1989 issued by the Director, Public Instructions (Schools), Punjab to the Deputy Director. A copy of this letter has been produced on record as Annexure P-5. In spite of the petitioner’s qualification having been duly recognised by the State Government, her appointment was not approved. Consequently the petitioner filed C.W.P. No. 13318 of 1991 in the High Court which was disposed of by order dated December 5, 1991. The Bench directed the State Government to take a decision specifically with regard to the question whether the two year J.B.T. Diploma Course conducted by the Himachal Pradesh Government is recognised for the purpose of employment in the aided school in the State of Punjab. In compliance with the directions of the High Court, it appears that the case was referred to the Government who,—*vide* order dated February 4, 1992 has decided that the J.B.T. Course

passed from the Himachal Pradesh cannot be recognised. As a result, the petitioner was threatened with the termination of her appointment by the respondent-School. Accordingly, she has again approached this Court through the present writ petition.

(2) Two separate written statements have been filed, one on behalf of a respondent Nos. 1 to 4 including the State of Punjab and the authorities of the Department of Education and the other on behalf of respondent Nos. 5 and 6, viz. the School. In the written statement filed on behalf of respondent Nos. 1 to 4, it has been *inter alia* mentioned that according to the "Punjab Government instructions No. 22/14980—3. Edu. 7/8453 dated 15th October, 1990 (R-1) J.B.T. Diploma only from State of Punjab is recognised. Since the petitioner, in this case has done her diploma from Himachal Pradesh instead of State of Punjab, she is not entitled for approval for grant in aid as per the instructions stated in this vary para above." No reason whatsoever has been assigned for the decision. None has been disclosed either in the order or in the written statement.

(3) Mr. D. V. Sharma, learned counsel for the petitioner, has raised a two-fold contention. Firstly, it is contended that the decision of the State Government can operate only prospectively and cannot govern the cases of persons, who had been employed before the issue of the order by the State Government. Secondly, he submits that the action is absolutely arbitrary and is not based on the consideration of the relevant material. Mrs. Tuli appearing for the respondent-State controverts this claim.

(4) On a perusal of the record of the case, it appears that,—*vide* letter dated May 18, 1989, the Director of Public Instructions had informed various officers that the Punjab Government has recognised the J.B.T. Course "passed from the Himachal Pradesh Government." The petitioner was appointed after the issue of this letter on August 14, 1989. Even if, subsequently the State Government has taken a decision not to recognise the diploma awarded by the Himachal Pradesh Government, its decision can have only prospective effect and govern appointments made after the said decision. The decision of the State Government cannot result in invalidating the appointments already made. Nor it would be fair for the State Government to decline to grant approval in cases where appointments were made when the letter dated May 18, 1989 was in operation.

(5) Still further, no reason whatsoever has been disclosed for holding that the State Government has not recognised the diploma

awarded by the State of Himachal Pradesh. An omnibus statement has been made in the written statement that the Punjab Government has decided that according to the Punjab Government instructions "J.B.T. Diploma only from State of Punjab is recognised." It has not been shown with reference to the syllabi or the course of studies that the course content of the studies leading to the award of diploma by the State of Himachal Pradesh is not of the requisite standard or upto any standard which may have been laid down by the State of Punjab. In fact, it is not shown that the State of Punjab has laid down any standard whatsoever. Even if the course of studies prescribed by the State of Punjab is taken as the basis, it has not been shown that the petitioner has not studied that course or that such a course is not taught in the State of Himachal Pradesh. In fact, it appears that the petitioner had joined the J.B.T. Course in July, 1966 at Una, which was then a part of the State of Punjab and the Diploma was awarded by the State of Himachal Pradesh only because the provisions of the Punjab Reorganisation Act, 1966 had come into operation on November 1, 1966. As a result, Una had come to form a part of the State of Himachal Pradesh.

(6) Taking the totality of circumstances into consideration, I am unable to sustain either the instructions issued by the State of Punjab to the effect that diploma of no other State shall be recognised nor am I able to uphold its action in not approving the appointment of the petitioner. Respondent Nos. 1 to 4 are accordingly directed to redecide the petitioner's case on the basis that she possessed the requisite diploma. The needful shall be done within three months from the date of the receipt of a copy of this order. In case the petitioner is found to fulfil the other requirements under the rules etc., the aid in respect of her post shall be released without any further delay. In case the whole matter is not decided by December 14, 1992 and the arrears of salary etc., if any found due to the petitioner, are not paid to her, the respondents shall be liable to pay the arrears with interest at the rate of 12 per cent per annum from the date of accrual of salary till the date of actual payment. In the circumstances of the case, the parties are left to bear their own costs.

J.S.T.