

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Constitutional Petition No.D-390 of 2013

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Present:

Mr. Justice Muhammad Iqbal Kalhoro,
Mr. Justice Irshad Ali Shah,

1. For hearing of M. A. No.1688/2013.
2. For orders on maintainability.

Petitioners : Abdul Aziz & others, through Mr. Ghulam Dastagir A. Shahani, Advocate.

Respondents : Province of Sindh & others.

Mr. Abdul Hamid Bhurgri, Additional Advocate General.

Date of hearing : 01.03.2017.

Date of Order : 01.03.2017.

ORDER.

The claim of the petitioners is that they being qualified had applied for appointment to the post of Primary School Teacher (BPS-9) and resultantly appeared in a written test held on 21.1.2013 at Provincial High School, Shahdadkot under the supervision of the respondents. The result of the said test was announced on 21.2.2013 but they were declared failed. However, later-on they came to know that the respondent viz. National Testing Service Pakistan (NTS) had distributed two different question papers in the above said examination centre and thereby they were discriminated against on the one hand and on the other it shows that the respondents appointed their favourites. In the backdrop of above said facts, the petitioners have prayed, *inter alia*, for declaration that the announcement of the result in pursuance of the written test held on the basis of two different question papers is illegal and void *ab initio*.

2. When this petition came up for hearing for the first time on 20.3.2013, the notice was issued to the respondents. However, on 07.9.2016 keeping in view the facts narrated in the petition, the petitioners' Counsel was put on notice to satisfy the Court on the maintainability of the petition.

3. Mr. Ghulam Dastagir A. Shahani, learned Counsel for the petitioners, has contended that the petitioners have been discriminated against and although they had all the qualification necessary for the appointment as a Primary School Teacher but were *mala fide* declared unsuccessful and at their place the respondents appointed their kins and kiths. He further submitted that act of respondents to distribute two different question papers in one and same examination centre denotes mala fide on their part and, therefore, the whole process is illegal and void *ab initio*.

4. On the other hand, learned Additional Advocate General has disputed the contentions of learned Counsel and has submitted that there is no bar in law that in the one and same examination centre two different question papers cannot be distributed among the candidates. He further submitted that learned Counsel is not able to point out any circumstance prejudicing the case of the petitioners.

5. We have considered submissions of the parties and perused the material available on record. The distribution of two different question papers among the candidates in one and same examination centre in a test held for the appointment of Primary School Teacher is not disputed. However, the learned Counsel for the petitioners has not been able to point out any illegality therein or that such practice is barred under any law and/or by resorting to such practice the respondents acted mala fide against the petitioners. The petitioners have also not been able to establish either that the result of their failure in the examination was on account of any ulterior motive on the part of respondents or it was based on the material extraneous to the subject-matter. The petitioners were afforded an opportunity to appear in the examination but they could not qualify the same. They have not brought on record any material to substantiate their allegations against the respondents. This being the position, we are of the view that this petition is not maintainable and is accordingly dismissed along with listed application.

