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**DIRECTOR GENERAL SCHOOL EDUCATION-CUM-STATE
PROJECT DIRECTOR, SARVA SHIKSHA ABHIYAN AUTHORITY,
PUNJAB, Punjab School Education Board Complex, E-Block, 5th
Floor, Phase-8, SAS Nagar**

Office Order

Whereas, Tarandeep Kaur and others had filed civil writ petition no. 12732 of 2012, wherein they have inter-alia prayed for directing the respondents to grant salary to the petitioners at par with the teachers appointed on contract under Sarva Shiksha Abhiyan/Rashtriya Madhyamik Shiksha Abhiyan in which petitioners are working, on the basis of equal pay for equal work. The said petition was decided by this Hon'ble Court vide its order dated 04.09.2015, along with other similar writs i.e. CWP No. 12732 of 2012 i.e. Tarandeep Kaur & Ors Vs State of Punjab & others, CWP No 24079 of 2012 title as Malkiat Singh & Ors Vs State of Punjab & others, CWP No 19001 of 2012 title as Pritpal Singh & Ors Vs State of Punjab & others, CWP No 21121 of 2012 titled as Jatinder Kaur & Ors Vs State of Punjab & others, CWP No 20225 of 2012 title as Maninder Kaur Viridi & Ors Vs State of Punjab & others, CWP No. 13888 of 2013 titled as Rimpay Rani & Ors Vs State of Punjab & others and CWP No. 2854 of 2015 titled as Narinder Singh & Ors Vs State of Punjab & others. The relevant portion of said order dated 04.09.2015 is reproduced as under:

" Therefore, a direction is issued to the respondent No.1 to 3 to consider and decide the demand of the petitioners for equal pay for equal work in a fair and just manner and in case relief is found grantable in law and on facts, the monetary benefits be extended to the petitioners and their pay be fixed on principles of parity of treatment to the extent of paying the minimum of the pay scale of regular employees or the salary in the minimum of the pay scales drawn by teachers working under the Rashtriya Madhyamik Sikhiya Abhiyan. Arrears, if any, to the extent admissible in law may be granted in accordance with law when there exists an equation of duties and responsibilities between the two set of employees. The needful should be done within a period of two months from the date of receipt of the certified copy of this order. In case, the minimum of the pay scale is found to be applicable and admissible on facts and justified in law then it would not be necessary for the competent authority to pass a speaking order and the rights of parties can be determined and operated through office orders.

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In case, and for any valid reason an adverse order is contemplated, then the petitioners would have a right to be heard and that would necessitate the passing of a reasoned order disclosing the process of reasoning adopted. In case hearing is required, then the time period specified is extended by another 30 days or any further reasonable time to complete the exercise as the circumstances may warrant in order to do full and complete justice."

2.) And whereas, In compliance of order dated 04.09.2015 passed by Hon'ble Punjab and Haryana High Court, an opportunity of hearing was offered to the petitioners on 03.11.2015 who have submitted their common representation with the request that the averments made in Civil Writ Petition no's 12732/2012,24079/2012,19001/2012,21121/2012, 20225/2012, 13888/2012 and CWP No. 2854/2015 and annexures attached therewith may kindly be read as part and parcel of our statement.

3.) And Whereas, Ministry of Human Resource and Development (MHRD), Government of India has laid down the guidelines/Instructions for proper implementation of the Sarva Shiksha Abhiyan project, .The para no. 39.16 of the Mannual of Sarva Shiksha Abhiyan,namely Financial Management and Procurement is reproduced as under :

39.16 "The posts of resource persons BRC's and CRC's would be filled by transferring existing senior and experienced teachers who have shown the temperament for this kind of job. The resultant vacancies in these schools would be filled up by trained Primary Teachers or Para Teachers to fill up the vacancies, subject to the State policy on this and NCTE guidelines. The minimum salary applicable to fresh teachers or para teachers would be provided from SSA."

In view of the above said clause 39.16 Sarva Shiksha Abhiyan Authority, Punjab had issued the instructions on 29.11.2004 and 29.05.2005 to appoint regular teachers as BRP's and Education Volunteers in lieu of regular teachers posted as BRP's. Hence, regular teachers were appointed as Block Resource Person (hereinafter referred to as 'BRP') to ensure that the entire project is implemented. On appointment of regular teachers as BRP's, there would be a temporary shortage of teaching faculty in the concerned school. Therefore, in order to overcome this problem, Savra Shikhsha Abhiyan Authority issued instructions/guidelines from time to time for the appointment of Education Volunteers/Shiksha

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Karmis/Service Providers in the concerned School in lieu of the appointment of regular teachers as BRP's. The education volunteers were appointed by Village Education Development Committee (VEDC) of the concerned village. The instruction issued for appointment of Education Volunteers in lieu of BRPs are reproduced as under :

1. In lieu of one BRP in the school from which the BRP is drawn. The Education Volunteers to be appointed in lieu of the BRP has to be from the same village only. However if the EV is not available in the same village, he/she can be appointed from nearby village.
2. The Education Volunteer should be selected by the VEDC purely on merit basis.
3. The age of Education Volunteer should be between 20 years to 35 years.
4. Preference should be given to science and mathematics graduate.
5. Honorarium would be given according to education qualification as under:

i. Graduate	Rs. 2500/- PM
ii. Graduate + B.Ed	Rs. 3000/- PM
iii. Post Graduate+ B.Ed	Rs. 3500/- PM

4.) And Whereas, as per the instructions dated 29.11.2004 issued by Sarva Shiksha Abhiyan Authority, Punjab, the Village Education Development Committee (VEDC), constituted under the project, was empowered to appoint two Education Volunteers in lieu of one Block Resource on the payment of wages stipulated in the said instructions. On 12.12.2008 Sarva Shiksha Abhiyan Authority Punjab had further taken a policy decision that three Education Volunteers may be appointed in place of one Block Resource Person(BRP). Now in Sarva Shiksha Abhiyan Authority, Punjab has already decided not to appoint any Education Volunteer w.e.f. 29.04.2011 and supervision and control of Education Volunteers have also been taken under the domain of Sarva Shiksha Abhiyan Authority Punjab after withdrawn from the Village Education Development Committee (VEDC).

5.) And Whereas, as per The Right of the Children to Free and Compulsory Education Act, 2009 and qualifications prescribed by National Council For Teacher Education, The State cannot compromise with the

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Educational qualifications of the Teacher. The qualifications prescribed by the NCTE are as under :

Minimum Qualification.-

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-Years Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2- Year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed).

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Classes VI-VIII

B.A/B.Sc and 2-year Diploma in Elementary Education (by whatever name known)

OR

B.A/B.Sc with at least 50% marks and 1-year Bachelor in Education (B.Ed)

OR

B.A/B.Sc with at least 50% marks and 1-year Bachelor in Education (B.Ed), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.El.Ed)

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Senior Secondary (or its equivalent) with at least 50% marks and 4- year BA/B.Sc. Ed or B.A. Ed/B.Sc. Ed.

OR

B.A/B.Sc with at least 50% marks and 1-year B.Ed. (Special Education)

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

6.) And Whereas, total 6575 Education Volunteers were appointed by the respective Village Education Development Committees from 2004 to 29.04.2011 who are imparting the education in the Government School in the State of Punjab, out of total 6575 Education Volunteers 5602 Education Volunteers are trained and remaining 973 are untrained. Academic qualification of trained Education Volunteers as follows :

Qualification	No. of Education Volunteers
B.A, B.Ed	2292
M.A., B.Ed	3148
B.P.Ed	78
E.T.T.	72
Arts and Craft	12
	Total- 5602

7.) And Whereas, Now the Education Volunteers/Petitioners are claiming equal pay vis-à-vis the teachers, who are appointed on the contractual basis after following due process of law. In this regard, not only the educational qualification and mode of selection but the nature of job and tenure of service of educational volunteers is completely different from the teachers appointed on contractual basis. The aforementioned distinctions are explained as under:-

A. MINIMUM QUALIFICATION

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Education Volunteer	Teachers for Classes 1-5 under SSA	Teachers for Classes 6-8 under SSA	Teachers under RMSA
Graduation only	Qualification Senior Secondary with ETT Diploma or equivalent with	Qualification of BA/B.Sc., B.Ed with specified percentage of	Qualification of BA/B.Sc., B.Ed with specified percentage of

	<p>specified percentage of marks and in case requisite candidate with above mentioned qualification not available then candidates with BA, B.Ed can also be considered.</p> <p>After 2011 it is compulsory to clear Teaching Eligibility Test (TET) under Right to Education Act, 2009</p>	<p>marks.</p> <p>After 2011 it is compulsory to clear Teaching Eligibility Test (TET) under Right to Education Act, 2009</p>	<p>marks.</p> <p>After 2011 it is compulsory to clear Teaching Eligibility Test (TET) under Right to Education Act, 2009</p>
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B. SELECTION PROCESS

Education Volunteer	Teachers for Classes 1-5 under SSA	Teachers for Classes 6-8 under SSA	Teachers under RMSA
<p>Without any selection process.</p> <p>Appointment by Village Education Development Committees from the concerned Village only and in case no eligible candidate is available then candidates from adjoining Villages.</p>	<p>Guidelines laid down by National Council for Teacher Education are followed and candidates are appointed after conducting State Level merit/written test</p>	<p>Guidelines laid down by National Council for Teacher Education are followed and candidates are appointed after conducting State Level merit/written test</p>	<p>Guidelines laid down by National Council for Teacher Education are followed and candidates are appointed after conducting State Level merit/written test</p>

C. LENGTH OF SERVICE

Education Volunteer	Teachers for Classes 1-5 under SSA	Teachers for Classes 6-8 under SSA	Teachers under RMSA

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<p>No specific period and no formal contract. Appointments are made as per stop gap arrangement against temporary vacancy of regular teacher who is sent on deputation as Block Resource Person under SSA Project.</p>	<p>On Contract basis with assured term of one year subject to fulfillment of contractual terms and with an option of extension subject to approval of post and receipt of grant from the Ministry of Human Resource and Development, Government of India and performance of candidates.</p>	<p>On Contract basis with assured term of one year subject to fulfillment of contractual terms and with an option of extension subject to approval of post and receipt of grant from the Ministry of Human Resource and Development, Government of India and performance of candidates.</p>	<p>On Contract basis with assured term of one year subject to fulfillment of contractual terms and with an option of extension subject to approval of post and receipt of grant from the Ministry of Human Resource and Development, Government of India and performance of candidates.</p>
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D. NATURE OF DUTIES

Education Volunteer	Teachers for Classes 1-5 under SSA	Teachers for Classes 6-8 under SSA	Teachers under RMSA
<p>Discharging duties of teacher. They don't have any knowledge about specialized teaching skills.</p>	<p>Each contractual teacher appointed under Sarva Shiksha Abhiyan Project is assigned duties as are assigned to regular teachers. They have undergone specialized teaching courses.</p>	<p>Each contractual teacher appointed under Sarva Shiksha Abhiyan Project is assigned duties as are assigned to regular teachers. They have undergone specialized teaching courses.</p>	<p>Each contractual teacher appointed under Sarva Shiksha Abhiyan Project is assigned duties as are assigned to regular teachers. They have undergone specialized teaching courses.</p>

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So it is clear from above said information that Education Volunteers/petitioners are not having requisite qualification as prescribed by National Council For Teacher Education (NCTE)

8.) And whereas, the Hon'ble Supreme Court of India vide its order dated 02.02.2006 , passed in Appeal (Civil) no. 933 of 2006- *Union Public Service Commission Vs. Girish Jayanti Lal Vaghela & Others* ,held that the appointment to any post under the State can only be made after a proper advertisement has been made by inviting applications from eligible candidates and holding of selection by a body of experts or a specially constituted committee. The relevant para 10 of the said judgment is reproduced as under :

"10. Article 16 which finds place in Part III of the Constitution relating to fundamental rights provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. The main object of Article 16 is to create a constitutional right to equality of opportunity and employment in public offices. The words "employment" or "appointment" cover not merely the initial appointment but also other attributes of service like promotion and age of superannuation etc. The appointment to any post under the State can only be made after a proper advertisement has been made inviting applications from eligible candidates and holding of selection by a body of experts or a specially constituted committee whose members are fair and impartial through a written examination or interview or some other rational criteria for judging the inter se merit of candidates who have applied in response to the advertisement made. A regular appointment to a post under the State or Union cannot be made without issuing advertisement in the prescribed manner which may in some cases include inviting applications from the employment exchange where eligible candidates get their names registered. Any regular appointment made on a post under the State or Union without issuing advertisement inviting applications from eligible candidates and without holding a proper selection where all eligible candidates get a fair chance to compete would violate the guarantee enshrined under Article 16 of the Constitution."

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9.) And whereas , one of the petitioner namely Kartar Singh has also submitted his representation under which he claimed his regularization and equivalent pay for equal work. He further submitted that State of Uttar Pradesh and Himachel Pradesh have regularized the sercvices of education providers. In this regard, The Hon'ble Allahabad High Court in WRIT – (A) No. 34833 of 2014 titled as **Anand Kumar Yadav & Ors. Vs Union of India & Ors.** has observed as follows :

" For all these reasons, we allow the writ petitions in the following terms:

- (i) The amendment made by the State Government by its notification dated 30 May 2014 introducing the provision of Rule 16-A in the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 by the Uttar Pradesh Right of Children to Free and Compulsory Education (First Amendment) Rules 2014 is held to be arbitrary and ultra vires and is quashed and set aside.
- (ii) The Uttar Pradesh Basic Education (Teachers) Service (Nineteenth Amendment) Rules 2014, insofar as they prescribe as a source of recruitment in Rule 5(2) the appointment of Shiksha Mitras; the academic qualifications for the recruitment of Shiksha Mitras in Rule 8(2)(c) and for the absorption of Shiksha Mitras as Assistant Teachers in junior basic schools under Rule 14(6) are set aside as being unconstitutional and ultra vires; and
- (iii) All consequential executive orders of the State Government providing for the absorption of Shiksha Mitras into the regular service of the State as Assistant Teachers shall stand quashed and set aside. The batch of writ petitions shall stand disposed of in the aforesaid terms. However, there shall be no order as to costs. "

After going through all the judgments on which petitioners are relying, Hon'ble Punjab and Haryana High Court in **Vijay Sharma Vs State of Punjab 2002-III LLJ-858** has clearly summarized view taken by the Hon'ble Supreme Court in various judgments as follows :

- a) The petitioners ought to be employed by the State as casual or daily rated workers.
- b) The employee ought to have worked as such for a fairly reasonable time satisfying the ingredients of continuity in service.


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c) The functions being discharged and work being performed by such employees should be similar (of course not by mathematical formula), as that being done by the regular employee of the same department.

d) Work performance of the employees should be satisfactory.

Whereas, the qualifications of the present petitioners is not equivalent to the other regular teachers as prescribed by National Council For Teachers Education (NCTE). In the absence of minimum qualification they are not discharging the same function as performed by regular teachers or teachers working under Sarva Shiksha Abhiyan Authority, Punjab / Rashtriya Madhyamik Shiksha Abhiyan Authority, Punjab. There is no such yardstick to check their performance on the other hand contract of contractual teachers working under SSA/RMSA are to be renewed every year on the basis of their work performance and conduct. Teachers under SSA/RMSA were recruited through open advertisement and after following proper selection criteria but present petitioners were kept as stop gap arrangement.


In view of the above, I Pradeep Kumar Agrawal, Director General School Education, Punjab-cum- State Project Director, Sarva Shiksha Abhiyan Authority, Punjab after thorough consideration of the case of the petitioners, come to conclusion that claim of the petitioner for salary at par with teachers appointed on contract basis under Sarva Shiksha Abhiyan/Rashtriya Madhyamik Shiksha Abhiyan authorities Punjab, on the basis of Equal pay for Equal work is not maintainable and hereby rejected.



 DGSE-cum- State Project Director
 Sarva Shiksha Abhiyan Authority,
 Punjab, SAS Nagar
 Dated 14.12.2015

Endt. No. 2/126-2015/SSA/Legal/ 20475

A copy is forwarded to the following for information :-

1. Sh Rajpal Singh S/o Sh Gurcharan Singh R/o VPO Mahuana, Tehsil- Malout, District Mukatsar Sahib. PIN-152114 (Punjab).
2. All petitioners through official website www.ssapunjab.org.


 DGSE-cum- State Project Director
 Sarva Shiksha Abhiyan Authority,
 Punjab, SAS Nagar


 DM(M/S)