

COCP No.565 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP No.565 of 2015
Date of decision:09.03.2015**

Vandana Sharma

...Petitioner

Versus

Shri Vinod Kumar Khanna and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Dr. B.M.Singh, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed against the respondents on the ground that they have violated the order dated 03.06.2013 passed by the Special Secretary, Higher Education, Punjab.

In short, the petitioner joined the Sewa Devi S.D. College, Sarhali Road, Tarn Taran (here-in-after referred to as the “College”) of the respondents as a Lecturer in Economics on 10.10.2002. For the purpose of approval of appointment of the petitioner by the Guru Nanak Dev University, Amritsar (here-in-after referred to as the “University”), she was required to submit the following documents to the University:-

“(1) An appointment letter in continuation of the
appointment letter dated 09.10.2002 in which the

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grade given to her be mentioned.

- (2) A fresh agreement in which the grade given to her be mentioned. This agreement be sent after filling in Clause I of the agreement, her date of joining 10.10.2002.
- (3) Original certificate of the Lecturer be also sent.”

It is alleged that the College did not send the above documents to the University, therefore, the petitioner had to file a writ petition because at that time, the Punjab Educational Tribunal (here-in-after referred to as the “Tribunal”) was not functional. Lateron, the petitioner moved to the Tribunal, who passed the following order on 22.04.2010:-

“We dispose of this writ petition by giving directions to respondent No.2 to cooperate with University/respondent No.1 and provide all essential information as demanded by the University from time to time so as to make the University possible to take a final decision of the matter and this decision would be taken within a period of six months from the receipt of copy of this order. Till the final decision is taken by respondents No.1 and 2, the service of the petitioner shall not be terminated by respondents No.1 and 2 and that no further action shall be taken on the basis of advertisement dated 18.05.2009. Let copy of this order be sent to respondents No.1 and 2 by post for compliance of this

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order. Copy of the order be also given to the petitioner.

There shall be no order as to costs. File stands
consigned.

Pronounced.

Sd/- Justice R.L.Anand (Retd)
Chairman, Punjab Educational Tribunal

Sd/- Asha Attri, IAS (Retd)
Member

April 22, 2010”

Since the State of Punjab did not act in terms of the directions
issued by the Tribunal, the petitioner moved an application under Section
9-A of the Punjab Affiliated Colleges (Security of Service of Employees)
Act, 1974 (here-in-after referred to as the “Act of 1974), which reads as
under:-

“9-A. Non-compliance with order or direction. - If
any Managing Committee fails to carry out any order of
the College Tribunal or any direction of the Director
under this Act, the State Government may take such
actions as it may think fit including stoppage of the
grant-in-aid.”

It is further alleged that after hearing learned counsel for the
petitioner, the State Government passed the order dated 28.05.2013 which
was conveyed to the respondents through Memo No.11/372/12-CCI/59580
dated 03.06.2013. The operative part of the said order reads thus:-

“The case is disposed of with a direction to the

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college to send documents within 10 days as per Annexure P-6, appended with the appeal.

The Government be informed of the action taken in accordance with the above order.”

Counsel for the petitioner submits that despite the fact that the Special Secretary, Higher Education, Punjab has disposed of the application filed by the petitioner under Section 9-A of the Act of 1974 directing the College to send the documents within 10 days to the University, the said order has not been complied with by the College. In this view of the matter, the present contempt petition has been filed.

From the resume of the aforesaid facts, it is apparent that the petitioner is aggrieved against the inaction on the part of the respondents despite the direction issued by the State Government to them vide letter dated 03.06.2013.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that the order passed by the State Government under Section 9-A of the Act of 1974 does not fall within the definition of Section 2(b) of the Contempt of Courts Act, 1971 and the remedy lies with the petitioner elsewhere by way of representing the State Government who had passed the order because as per Section 9-A of the Act of 1974 if the Managing Committee of the College does not carry out any order of the College, Tribunal or any direction of the Director Education, the State Government may take such actions as it may think fit including stoppage of the grant-in-aid, therefore, the State Government

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would still have the power to pass any kind of order as provided under the Act of 1974 to get its order implemented by the respondents in terms of Section 9-A of the Act of 1974.

Thus, the petitioner may either approach the State Government and in case the State Government does not act on her representation, the petitioner may file a writ petition in this Court for seeking a direction.

In any case, the present contempt petition is not maintainable and is dismissed as such.

March 09, 2015
vinod*

(Rakesh Kumar Jain)
Judge