
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.3616 of 2015

Date of decision: 09.09.2015

Shri Jawala Parsad Siksha Samiti Sagra

...Petitioner

Versus

The National Council for Teachers Education and others **...Respondents**

CORAM: MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. S.K.Yadav, Advocate for the petitioner

Mr. Ashish Rawal, Advocate for respondents no.1 and 2.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate for respondent no.3.

Mr. Saurabh Girdhar, Assistant Advocate General, Haryana.

G.S.SANDHAWALIA, J, (Oral)

In the present writ petition, challenge is to the order dated 8.7.2014 (Annexure P/3) passed by the Northern Regional Committee of NCTE whereby on account of the deficiencies the application for recognition was rejected.

Admittedly against the said order, the appeal is maintainable under Section 18 of the National Council for Teachers Education Act, 1993 (hereinafter referred to as "the Act") which the petitioner was not availed.

It has time and again been held that jurisdiction under Article 226 of the Constitution of India should not be exercised once there is an alternate remedy available under the Statute.

The Apex Court in **City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla and others, (2009) 1 SCC 168** laid down the principles whereby, this Court would exercise its remedy under Article 226 of the Constitution of India. It was specifically held that this Court had to consider whether the petitioner has an alternative and efficacious remedy for the resolution of the dispute. Paragraphs 29 and 30 of the judgment reads as under:-

"29. In our opinion, the High Court while exercising its extraordinary jurisdiction under Article 226 of the Constitution is

duty-bound to take all the relevant facts and circumstances into consideration and decide for itself even in the absence of proper affidavits from the State and its instrumentalities as to whether any case at all is made out requiring its interference on the basis of the material made available on record. There is nothing like issuing an ex parte writ of mandamus, order or direction in a public law remedy. Further, while considering the validity of impugned action or inaction the Court will not consider itself restricted to the pleadings of the State but would be free to satisfy itself whether any case as such is made out by a person invoking its extraordinary jurisdiction under Article 226 of the Constitution.

30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;
- (b) the petition reveals all material facts;
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) ex facie barred by any laws of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors. The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law."

Faced with this situation, counsel for the petitioner submits that he does not wish to press the present petition and prays that the same may be dismissed as withdrawn with liberty to avail alternative remedy before the competent authority.

Accordingly, the present writ petition is dismissed as withdrawn with the aforesaid liberty.

It is open to the petitioner to file an appropriate application under Section 14 of the Limitation Act, 1963 for the period which he had spent before this Court.

September 09, 2015
Pka

(G.S.SANDHAWALIA)
Judge