

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15825 of 2016

Date of Decision: 03.11.2016

Naresh Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Kumar Yadav, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. The respondent is a private aided school run by the DAV management and is amenable to writ jurisdiction.

2. Learned counsel has satisfied the query of this Court put to him on the last date of hearing regarding maintainability of the petition against the respondent management. In support he relies on the Division Bench decision of this Court in Usha Rani Sehgal v. Managing Committee of Hindi Putri Pathshala and others, 2011 (4) RSJ 480. Usha Rani is a service matter arising out of a DAV institution and to that extent it is relevant on point of jurisdiction.

3. Mr. Yadav reinforces his argument by contending that even a private unaided school is amenable to writ jurisdiction. He cites the decision of the Supreme Court in Ramesh Ahluwalia v. State of Punjab and others, (2012) 12 SCC 331. In this case, the Court held that even a purely private body where State has no control over its internal affairs would be amenable to the jurisdiction of the High Court under Article 226 of the Constitution of

India for purposes of issuance of a writ of mandamus, if such private body is performing public functions normally expected to be performed by the State authorities. This case also dealt with a service matter involving a DAV educational institution. Having satisfied the Court that the writ can be issued in the matter, then in the present case such a writ deserves to be issued for the simple reason that the statutory remedy against the order of dismissal passed against the petitioner by the management is pending before the 3rd respondent for the last about year or so and no decision has been taken thereon. It is one thing to dismiss an employee but it is quite another not to decide the internal statutory appeal for an unreasonable period of time. If the status quo is allowed to continue grave harm will fall on the petitioner who will not be able to pursue his further remedy in a court of law in case the decision is against him. The statutory appeal was filed on September 21, 2015 and has remained pending for over 14 months which is not a fair thing to do. Since inaction is also an action and the action in denying speedy justice is equally bad in not passing judgment within reasonable time.

4. As a corollary, a mandamus is issued to the 3rd respondent to consider and decide the statutory appeal within six weeks from the date of receipt of a certified copy of this order and after passing the order to supply the petitioner a copy forthwith. Needless to say that the petitioner will be heard in person together with his memorandum of appeal and the grounds taken therein will be considered and dealt with in accordance with law by passing a well reasoned speaking order after noticing and deciding separately all the issues arising in the appeal by a common order. The

petitioner would have a right to file a supplementary appeal, in case, he wishes to, within a fortnight from today.

5. With these observations and directions, the petition stands disposed of without expressing any opinion on the merits of the case.

(RAJIV NARAIN RAINA)
JUDGE

03.11.2016
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Whether speaking/reasoned	Yes
Whether reportable	No