

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO. 2808 OF 2014

DATE OF DECISION: AUGUST 02, 2016

Smt.Kaushalya Devi wife of Sat PalPetitioner

Versus

The State of Haryana and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Jasbir Mor, Advocate for the petitioner.

Mr.Hitesh Pandit, Additional Advocate General,
Haryana.

Mr.RN Lohan, Advocate for respondent No.5.

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TEJINDER SINGH DHINDSA, J.

The petitioner who was working as Peon on temporary basis in the Hindu Kanya Mahavidalaya, Jind, has filed the instant petition impugning the order dated 4.4.2012, Annexure P1, whereby her services have been terminated. Further prayer is for the issuance of a writ of mandamus directing the respondent-Institution to re-instate her in service with all consequential benefits.

2. Upon notice of motion having been issued, written statement of the Principal, Hindu Kanya Mahavidalaya, Jind, respondent No.5, has been filed and placed on record. A preliminary objection has been raised as regards maintainability

of the writ petition and by contending that the petitioner has not exhausted the remedy of appeal provided vide notification dated 2.3.2015 issued by the State Government whereby District and Sessions Judges in the State of Haryana have been authorized to hear appeals of the employees of aided/unaided Educational Institutions against decisions of the Management within their jurisdiction.

3. Learned counsel appearing for the petitioner would attempt to meet such preliminary objection by submitting that the impugned order of termination was passed prior in point of time to the issuance of notification dated 2.3.2015.

4. Having heard learned counsel for the parties, this Court is inclined to uphold the preliminary objection and to relegate the petitioner to her remedy of appeal as per notification dated 2.3.2015 appended as Annexure R5/1 along with the written statement filed on behalf of the respondent-Institute.

5. The notification dated 2.3.2015 issued by the Haryana Government, Higher Education Department reads in the following terms:

“No.24/21-2011 C-IV(3) – In pursuance to the judgment dated 30.10.2002 of the Hon'ble Supreme Court of India in TMA Pai Foundation and others Versus State of Karnataka 2002(8) SCC 481 wherein the Hon'ble Court has observed that for the redressal of grievances of employees of aided/unaided educational institutions who are subjected to punishment or termination of services, a mechanism will have to be evolved by

constituting appropriate tribunals. The right of filing appeals would lie before the District and Session Judges or Additional District and Session Judges till the tribunals are set up.

It is notified that the District and Session Judges in the State of Haryana have been authorized to hear the appeals of the employees of aided/unaided educational institutions against decision of management within their jurisdiction, by the Hon'ble Punjab & Haryana High Court, Chandigarh vide No.23414 Gaz.II/IX.C.11 dated 10.8.2005. The tribunals already notified by the Hon'ble High Court will also bear appeals of Employees of aided/unaided colleges against the orders of management.

*Vijai Vardhan, IAS
Additional Chief Secretary to Govt.Haryana,
Higher Education Department, Chandigarh."*

6. It is apparent that an employee of an aided or unaided Educational Institution and who is aggrieved of any detrimental order/decision taken by the Management has a right to file appeal before the District and Sessions Judge in the State of Haryana and who would be exercising territorial jurisdiction over such Educational Institution.

7. The submission made by the learned counsel for the petitioner that the orders of termination have been passed prior to the issuance of the notification dated 2.3.2015 would be of no consequence. There is no bar contained in the notification dated 2.3.2015 preventing adjudication of an appeal in relation to an

order/decision of the Management that may have already been passed. Even otherwise, the respondent-Institution i.e. Hindu Kanya Mahavidalaya, Jind having itself taken a preliminary objection as regards the petitioner not having availed of such remedy, it would not lie in their mouth to raise such objection in the eventuality of the petitioner filing an appeal in terms of the notification dated 2.3.2015.

8. The petitioner having been provided an efficacious and alternate remedy as regards redressal of her grievance in the light of notification dated 2.3.2015, the instant writ petition is disposed of in terms of granting liberty to the petitioner to approach the Educational Tribunal/District and Sessions Judge concerned to assail the order of her termination dated 4.4.2012.

9. Disposed of accordingly.

10. It is clarified that this Court has not examined the case of the petitioner on merits and as such, all issues in relation thereto or emanating therefrom are kept open.

AUGUST 02, 2016
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* *Yes/No*
Whether referred to Reporter? *Yes/No*