

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**C.M. No.13036 of 2016 in/and
CWP No. 7823 of 2016
Date of decision:21.10.2016**

Dr. Anand Rai Bansal & ors.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Kanwaljit Singh, Sr. Advocate, with
Mr. Amarjeet Singh, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

Mr. Anurag Goyal, Advocate,
for respondent No.2.

Mr. DK Singal, Advocate,
for respondent No.5.

RAJIV NARAIN RAINA, J.(Oral)

1. By consent of learned counsel for the parties, main case is taken up for final disposal.

2. This petition has been filed assailing the recommendations of the National Commission for Scheduled Caste and Backward Classes pretending to be an enforceable order and direction as though it was issued by the constitutional Court in a service law matter. The order commands respondent PGIMS Rohtak not only what is to be done in the case of the applicant before it, the non-official respondent, but also the manner in which it is required to be done to bring relief to the applicant. This is ordinarily impermissible even in jurisdiction under Article 226 of the Constitution to command an authority to decide in a particular way. If such a recommendation is allowed to be treated as a binding decision it would

cause administrative chaos in what is purely a service matter, where the Commission possesses neither jurisdiction nor business to make any recommendation whatsoever, the field occupied by service rules. The Commission has no authority to interpret rules and instructions or to guide authorities in producing an end result of the dispute in the shape of an order. Mr. Anurag Goyal, appearing for respondent No.2 is equally aggrieved by the recommendations/order since the Commission lacks jurisdiction as it impairs the independent functioning of the PGIMS, Rohtak and impedes it to take a decision in a fair and proper manner on the claim made by the private respondent.

3. Mr. Kanwaljit Singh, learned Senior counsel appearing for the petitioners submits that the order should not be allowed to stand even for a day as it is wholly without jurisdiction.

4. I agree with this that the order is illegal and accordingly declare it so. As a result of the above discussion, and having regard to the fair stand taken by the respondent-Institution at Rohtak, the order dated January 29, 2016 does not deserve to stand and accordingly it is set aside. The respondent-Institution at Rohtak would now be free to take an independent decision in the case of the dispute between the petitioner and the private respondent etc. in accordance with rules.

5. The petition is allowed. The impugned recommendations/order are set aside.

(RAJIV NARAIN RAINA)
JUDGE

21.10.2016
monika

Whether speaking/reasoned
Whether reportable

Yes
No