IN THE COURT OF PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

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C.W.P No. 8677 of 2015 (O&M)
Date of Decision: April 06, 2016

Ms. Madhu Sablok & Ors. ......Petitioners

Versus

State of Haryana & Ors. ......Respondents.

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present:- Mr. Namit Kumar, Advocate, for the petitioners.

Mr. P.P.Chahar, Deputy Advocate General, Haryana.

Rakesh Kumar Jain, J

This petition is filed by the teachers/employees working in K.L.Mehta Dayanad College for Women, Faridabad, for directing the respondents to release their salaries, which has been held by the Management w.e.f October 2014.

On 10.07.2015, the following order was passed by this Court:-

" *Counsel for the respondents seek time to file replies.*

Counsel for the petitioners states that owing to a dispute between respondents No.1 to 4 (Government) and respondents No.5 and 6 (aided College), the petitioners who are confirmed employees have not been paid their salaries since October 2014, and prays that respondents No.5 and 6 *should be directed to release at-least some payment to the petitioners.*

Counsel for respondents No.5 and 6 has stated that the State has unjustifiably stopped the grant in aid and that respondents No.5 and 6 have challenged that order by way of CWP No.23699 of 2014, which is now fixed for 24.8.2015. As per him, under Section 14 of the Haryana Affiliated Colleges (Security of Service) Act, 1979, even if the State Government has some dispute with the Managing Committee, it can directly release its share of the salary to the employees.

That may be so, and for that purpose, respondents No.5 and 6 may approach the State Government but as has been held by the Courts repeatedly, the primary responsibility to pay salaries to the employees is of respondents No.5 and 6.

In the circumstances, respondents No.5 and 6 are directed to ensure that payment of atleast half of the amount is made to each of the petitioners before the next date of hearing.

Adjourned to 24.8.2015. To be listed along with CWP No.23699 of 2014."

Thereafter, on 13.10.2015, the following order was passed:-

"The petitioners are the teachers/staff of respondent No.5/college, who have not been paid their salary from October 2014 onwards. It is submitted that pursuant to the order passed by this Court on 10.7.2015, the college management has released 50% of the salary to the petitioners, upto June, 2015 but remaining 50% salary from October, 2014 to June, 2015 has not been paid by the State Government.

Learned counsel for the petitioners has also submitted that from July, 2015 onwards neither the college management has paid the salary nor the State Government.

Adjourned to 4.11.2015.

In the meantime, respondent No.2 is directed to release the remaining salary of the petitioners beyond 50%, which has already been paid by the management, on or before the next date of
hearing.

Learned counsel for the State has submitted that the State will not pay the amount to the management but straightway deposit it in the account of the petitioners.

Learned counsel for the petitioners has no objection in that regard and directed to supply the bank account numbers of each petitioner to the counsel for the State within two days.

A copy of this order be given to counsel for the parties under the signature of Special Secretary for compliance."

The latest orders was passed on 30.03.2016, which is reproduced as under:-

"Counsel for the petitioner has submitted that since July,2015 their salary has not been transferred to their accounts by the Government.

Mr. Chahar,learned DAG, Haryana prays for an adjournment to seek instructions in this regard.

Adjourned to 6.4.2016.

It is made clear that in case the 50% of the salary is not transferred in the accounts of the petitioners, then Director General, Higher Education, Haryana shall remain present in Court.

A copy of this order be given to learned State counsel under the signatures of the Special Secretary.

A photocopy of this order be placed on the files of connected cases."

Learned counsel for the petitioner has submitted that uptill 2015, the petitioners have been paid full salary, out of which 50% was to be paid by the Management and 50% was to be paid by the Government out of grant-in-aid. Thereafter, from July 2015 they did not receive any salary till the order dated 30.03.2016 was passed. It is only pursuant to the said order, the State Government has paid 50% of their salary out of the grant-in-aid. Learned counsel further submitted that because of some litigation between the management and the government in regard to the appointment of the Principal, their salary has been withheld both by the Government and the Management though the college is aided college and the service of the petitioners is regulated by the Haryana Affiliated Colleges (Security of Service) Act, 1979. Learned counsel for the petitioners has pressed Section 14(2) of the Act to contend that even if the management is not following any directive issued under the Act by the Government and the competent authority, it is a duty to pay the salary of the employees of the affiliated college or of the Management Committee out of grant-in-aid payable to the affiliated college.

On the other hand learned State counsel has submitted that the State has the power to suspend the grant-in-aid in view of Section 14(1) of the Act in case of any violation of any of the provisions of the Act or the rights made thereunder or of any directive issued under Section 12 by the Managing Committee.

I have heard learned counsel for the parties and perused the record. In order to appreciate their contentions, it would be relevant to reproduce Section 14 as a whole. The Section is reproduced as under:-

> *14.* ***Power to stop, reduce or suspend grant-in-aid or to make payment therefrom to employees in certain cases:-*** *(1) It shall be Iawful for the Government to stop, reduce or suspend the grant-in-aid to an affiliated college for the violation of any of any of the provisions of this Act or the rule made thereunder or of any directive issued under section 12, by the Managing Committee, Manager or any other authority charged with the administration thereof.*
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> *(2) In the case of non-compliance of an order of a competent authority, or of any directive, issued under the Act, it shall be lawful for the Government to pay, out of the grant-in-aid payable to the affiliated college such sum of money as is found to be due to any employee from such affiliated college or the Managing Committee.*
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> *(3) Before taking any action under the section, the Government shall give a reasonable opportunity to such Managing Committee, Manager or authority concerned to show cause against the action proposed to be taken."*

Undisputedly, there is litigation between the management and the private person in respect of the appointment of the Principal of the college which is being pursued by the parties in CWP No. 19526 of 2016. The stand of the respondent-State is that because the management has not followed the directives issued by the State government in the matter of appointment of the Principal, therefore grant-in-aid to the college has been suspended in terms of Section 14(1) of the Act. On the other hand the stand of learned counsel for the petitioner is that the inter se dispute between the management and the government shall not reflect upon the service condition of the petitioner who have not been paid salaries since July 2015. It is also the stand of the petitioner that dehors the non-compliance of the competent authority or any directive issued by the Government under the act, it is duty of the government to pay the salary out of grant-in-aid payable to the affiliated college which is due to any employee from such affiliated college or the Managing Committee.

It is clearly provided under Section 14(2) that an infighting between the Management or Government, the rights of the petitioners should not suffer in any way and for that the act was enacted for the security of service of such employees. Grant-in-aid, which is payable by the Government to such employees is required to be paid by the Government to the employees except for the share of the management for which the petitioners may also litigate. However, at present, the respondent-State is directed to pay 45% more out of 95% grant-in-aid which is payable to the college and other similarly situated employees within one month from today. It is made clear that the State shall continue to pay salary regularly to the petitioners as well as similarly situated employees of the respondent-college to the extend of the grant-in-aid, which is to be paid by the government to the college. The respondent shall also decide about the question of deposit of G.P.F of the petitioners and the similarly situated persons.

(RAKESH KUMAR JAIN)
JUDGE

April 06, 2016
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