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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.7363 of 2016 (O&M)
Date of Decision: 23.08.2017**

MONIKA KAURA

.....Petitioner

Vs

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Harish Chhabra, Advocate for
Mr. Ram Niwas Sharma, Advocate
for the petitioner.

Mr. Ravi Partap, A.A.G., Haryana.

RAJ MOHAN SINGH, J. (Oral)

[1]. On 04.11.2016, following order was passed by this
Court:-

“Learned counsel for the petitioner contended that the Child Care Leave to the petitioner was sanctioned by the Additional Chief Secretary who was the Competent Authority. The Director, Health Services has no jurisdiction to cancel the leave. Thus, he contended that the order of cancellation of the leave was illegal.

Notice of motion for 27.01.2017.

In the meanwhile, the operation of the impugned order shall remain stayed.”

[2]. Child Care Leave was granted to the petitioner which was sanctioned by the Additional Chief Secretary to Govt. of Haryana, Health Department being a competent authority. An application under Order 39 Rules 1 and 2 CPC filed by the plaintiff/petitioner was allowed by the Civil Judge (Jr. Divn.) Panchkula vide order dated 15.06.2016 and it was observed that the plaintiff would be bound by her statement regarding reimbursement, in the event of cancellation order being upheld at a subsequent stage.

[3]. The lower Appellate Court reversed the order of the trial Court on the premise that after the cancellation of her leave, the plaintiff has joined the services on 27.05.2016 and keeping in view the same, the interim relief claimed by the plaintiff has become infructuous.

[4]. Be that as it may, the suit is still pending and the trial Court would decide the same on merits. Concededly, the sanctioning of Child Care Leave is under the domain of competent authority, who is the Additional Chief Secretary, Health in the instant case. The cancellation of aforesaid sanctioned leave by the Director General Health Services, Panchkula without issuing any show case notice to the plaintiff would be a core issue to be debated with reference to the evidence on record at the time of conclusion of the suit.

[5]. At this stage, there is nothing on record to presume that all the ingredients for grant of temporary injunction viz. existence of a *prima facie* case, balance of convenience and sufferance of irreparable loss in the event of non-grant of temporary relief are missing from the case of the applicant/plaintiff.

[6]. In view of above, petition is allowed and the impugned order dated 04.10.2016 passed by the Addl. District Judge, Panchkula is set aside. The order dated 15.06.2016 passed by the Civil Judge (Jr. Divn.) Panchkula is hereby restored.

August 23, 2017

(RAJ MOHAN SINGH)
JUDGE

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No