

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

CWP No. 22009 of 2014 (O&M)  
Date of decision: March 22, 2017

Dr. Sham Sunder Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Sameer Sachdeva, Advocate,  
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab.

Mr. Atul Nehra, Advocate,  
for respondent No.3.

**JAISHREE THAKUR, J.**

1. The petitioner herein seeks to challenge the orders dated 04.04.2014 and 10.10.2014 (Annexure P/15) whereby all the rights of the post of Principal were ordered to be withdrawn from him.

2. In brief, the facts are that the petitioner applied for the post of Principal in pursuant to the advertisement dated 20.12.2012. The Selection Committee found him suitable and selected him Principal. The university accorded approval for his appointment on 12.07.2013 and Director Public Instructions (Colleges), Punjab also approved his appointment vide communication dated 10.01.2014. The selection of the petitioner was also confirmed by respondent No.3-college. Thereafter, the petitioner has been functioning as Principal of respondent No.3-College. Vide the impugned

order dated 10.10.2014 (Annexure P/15), the Director Education Department (Colleges) intimated the Secretary, Managing Committee of the College that the approval granted for the appointment of the petitioner as Principal has been withdrawn and all rights of the post in question be withdrawn from him. Learned counsel contends that approval of appointment of the petitioner once granted could not be withdrawn by a totally non-speaking order.

3. Per contra, learned counsel for the Director, Public Instructions (Colleges) (**'DPI Colleges'** for short) argues that for the selection and appointment of Principals and Lecturers, a nominee of respondent No.2 DPI Colleges is mandatorily required under the terms and conditions of grant-in-aid scheme. It is argued that for the appointment of the Principal, an interview for selection was convened for 21.4.2013 by respondent No.3—DAV College, but due to some communication gap, the nominee of respondent—State could not join the Selection Committee at the time of the interview. In the absence of the nominee of respondent No.2, the meeting of the Selection Committee should have been postponed, rather than holding it and the selection of the petitioner should not have been made. It is argued that even though approval of the selection of the petitioner was made on 10.01.2014 (Annexure P-13), but the said approval was granted erroneously and when it was found out on a complaint made by one of the candidates that the selection of the petitioner was made in the absence of nominee of respondent No.2, it was withdrawn by order dated 10.10.2014 (Annexure P/15).

4. I have heard the counsel for the parties and with their assistance

have gone through the record of the case.

5. It is not in dispute that the petitioner appeared for the interview which was held by the Committee for selection on the post of Principal. Due information was sent by the College to the office of DPI Colleges intimating about the fixing of the date for interview by the Selection Committee and requesting them to send their nominee to attend the meeting. However, for some reason no one put in an appearance from the office of the DPI Colleges on the date fixed. The petitioner was selected and thereafter a appointment letter was issued to him. The appointment letter had a condition which specified that petitioner would be on probation for one year and the appointment would be subject to the approval of Panjab University Chandigarh and DPI Colleges Punjab. Intimation about the appointment of the petitioner was given to both the Panjab University as well as to the office of DPI Colleges. Punjab University gave its approval. The Deputy Director Colleges sought an explanation regarding the appointment of the petitioner as Principal in the absence of nominee of DPI Colleges. The College responded to the said communication received and thereafter by letter dated 10.01.2014 approval was given to the appointment made as Principal on the terms and conditions mentioned in the appointment letter. The Managing Committee of the College also confirmed the appointment made. However, without any notice all the rights of post of Principal was sought to be withdrawn from the petitioner.

6. It is argued that, as per terms and conditions of grant-in-aid scheme, there is a stipulation that no selection shall be considered valid unless at least one representative of the DPI Colleges is present and

recommendations of the Selection Committee shall be subject to the approval of Director of Public Instructions (Colleges) Punjab. It is argued that the selection is not valid on account of the fact that there was no representative or nominee from the DPI Colleges present on that date and, therefore, any selection made is not sustainable. This argument would not have much relevance since the DPI Colleges ultimately approved of the selection made. Due information had been given to the DPI Colleges about fixing of the interview date, requesting for a nominee to be sent on the date fixed. A week later but prior to the date of the interview a reminder was sent by speed post on 16.4.2013 requesting the DPI Colleges to depute its nominee/expert to be part of the Selection Board for the selection of Principal DAV College. The Selection Committee also comprised of members as nominated by the university itself and, therefore, it would not be the case made out that the selection made was vitiated. In any case, all recommendations of the Selection Committee were to be subject to the final approval of the Director Public Instructions (Colleges) Punjab, even if the nominee had attended, and was a dissenting vote, the matter would have to be referred for final approval to the Director of Public Instructions (Colleges) Punjab, who had the option of either confirming the selection or setting it aside. The argument raised that the impugned order was issued after discovering that approval had been given erroneously, is a ground that does not stand to reason. In the instant case, after seeking due explanation as to why selection had been made in the absence of the nominee of the Director of Public Instructions (Colleges), Punjab, approval was given by the DPI itself. Furthermore, the impugned order itself is silent as to why the

approval given has subsequently been withdrawn. It is a non speaking order and thereby unsustainable.

7. Looked at it from another angle, the impugned order is liable to be set-aside on the grounds of violation of the rules of natural justice. Once the selection had been made of the petitioner to the post of the Principal of the College, the same could not have been withdrawn unilaterally, especially in view of the fact that the the petitioner was discharging the duties of Principal after due approval had been given by the DPI Colleges itself. Before withdrawal of the rights of the Principal, no show cause notice was issued to the petitioner nor was any opportunity of hearing afforded to him. The rule of '*Audi Alterm Partem*' in this regard is well-settled which casts a duty not to issue any adverse orders without fair hearing being afforded to the person likely to be affected, which admittedly has not been done in the instant case.

8. Therefore, in view of the above, this writ petition is allowed and the impugned order dated 10.10.2014 is set aside.

**March 22, 2017**  
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**(JAISHREE THAKUR)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes  
No