

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

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**CWP-28421-2013 (O&M)
Date of decision:30.05.2017**

DAV College Trust and Management Society and others

....Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. R.S.Cheema, Advocate for the petitioners.

Mr. R.K.Doon, AAG, Haryana.

Mr. Akash Soni, Advocate for
Mr.D.S.Rawat, Advocate for respondent No.3.

P.B. Bajanthri, J. (Oral)

In the present writ petition, petitioners have questioned para 3 of the order dated 11.10.2012 (Annexure P14) which reads as under:-

“3. DAV College Managing Committee, New Delhi will pay the salary of the staff for the months of Feb. & March 2013 as a penalty for violation of the Act as provided under Section 14(2) of Haryana Affiliated Colleges (Security of Service) Act, 1979.”

Petitioner-Management had taken certain disciplinary action against one Dr. Subhash Tanwar, Principal, DAV College Pundri on the allegation of certain misdeeds stated to have been committed by him. Feeling aggrieved by the action of the petitioner-Institute, Dr. Subhash Tanwar preferred departmental appeal before Director of Higher Education. Director Higher Education was pleased to pass an order in favour of Dr.

Subhash Tanwar. Feeling aggrieved by the order of the Director, Higher Education petitioner-Institute preferred an appeal before the Principal Secretary to Government of Haryana, Higher Education Department. The Principal Secretary to Government of Haryana, Higher Education while deciding the petitioner-Institution's appeal passed the following order

“1. DAV College Managing Committee, New Delhi is allowed to extend the suspension period of Dr. Subhash Tanwar, Principal, DAG College, Pundri upto 31.12.2012 on the request of DAVCMC, New Delhi made during the hearing on 11.10.2012.

2. DAV College Managing Committee, New Delhi will complete the enquiry in this matter and will take the necessary decision by 31.12.2012.

3. DAV College Managing Committee, New Delhi will pay the salary of the staff for the months of Feb. & March 2013 as a penalty for violation of the Act as provided under Section 14(2) of Haryana Affiliated Colleges (Security of Service) Act, 1979.

4. The subsistence allowance as admissible in the rules will be paid to Dr. Subhash Tanwar.

I order accordingly.”

Petitioner is aggrieved by para 3 of the above order. Perusal of the order dated 11.10.2012 an extraneous decision has been taken by the appellate authority insofar as para 3 is concerned. It is also evident that petitioner-Institution was not heard before imposing the penalty for violation of the Haryana Affiliated Colleges (Security of Service) Act, 1979. Accordingly, para 3 of the order dated 11.10.2012 is hereby set aside.

The Principal Secretary to Government of Haryana, Higher Education Department is hereby directed to issue a show cause notice before proceeding further under the Haryana Affiliated Colleges (Security of Service) Act, 1979. If such notice is issued to the petitioner-Institution they are at liberty to make necessary reply/explanation. After receipt of the petitioner's explanation, Principal Secretary to Government of Haryana Higher Education Department is at liberty to pass order in accordance with law.

With the above observation CWP stands allowed in part.

(P.B.BAJANTHRI)
JUDGE

30.05.2017

pooja saini

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No