

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-25979-2017

Date of decision : 04.12.2017

Dr.Brijender Singh Dhillon

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Gunjan Mehta, Advocate
for the petitioner.

Mr. R.K.S. Brar, Addl.A.G. Haryana.

Mr. Anurag Goyal, Advocate
for respondents no.2 to 6.

Mr.Mani Ram Verma, Advocate
for respondent no.7.

AMOL RATTAN SINGH, J.(ORAL)

By this petition, the petitioner seeks quashing of the order dated 27.09.2017 (Annexure P-13), by which the Vice-Chancellor of the respondent University has suspended the petitioner services with immediate effect.

The short order reads as follows:-

“In compliance to Additional Chief Secretary to Govt. of Haryana, Medical Education & Research Department, Chandigarh, File No.14/2/2017-1HB-IV dated 18/20.09.2017, Dr. Brijender Singh, Sr. Professor & Head, Deptt. of Hospital Administration, PGIMS, Rohtak is hereby placed under suspension with immediate effect under Section 14 (9) of the Pt. B. D. Sharma, University of Health Sciences Act, 2008.”

Notice was issued in this petition on 14.11.2017, with the

respondents all having put in appearance, the contesting respondents actually being the University and its Vice-Chancellor, i.e. respondents no.2 and 3.

Though, as recorded in the order dated 17.11.2017 learned counsel for the respondents had stated that they would file replies, no such reply has been filed so far and in any case, the issue of maintainability of the order of suspension being the primary legal issue, the matter has been taken up for arguments.

Mr.Mehta, learned counsel for the petitioner, having pointed out that the impugned order dated 27.09.2017, passed by the Vice Chancellor of the respondent University, has been passed invoking jurisdiction under Section 14(9) of the Pt. B.D. Sharma University of Health Sciences Act 2008, he thereafter points to the said provision itself which reads as follows:-

“(9) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of University by or under this Act except in the matters involving creation or abolition of a Faculty, Department or post, the matter involving the appointment or removal of an employee:

Provided that the Vice-Chancellor before exercising powers under this section shall record in writing the reasons, why the matter cannot wait till the meeting of the authority concerned:

Provided further that if the authority concerned is of the opinion that such action ought not to have been taken by the Vice-Chancellor, it may refer the matter to the Chancellor whose decision thereon shall be final:

Provided further that any person in the service of University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent to the Executive Council within one month from the date on which decision on such action is

communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor. The employee shall be informed that the action has been taken under emergency powers.”

The aforesaid provision being existent as it is, the first proviso itself providing that the Vice Chancellor before exercising powers thereunder would record in writing the reasons why the matter cannot wait till the meeting of the authority concerned, and no such reasons have been given whatsoever in the said order, nor any such reasons have been produced even on file in Court by the respondent University, the order itself would be unsustainable in the opinion of this Court.

It is further to be noticed that Section 21 of the aforesaid Act names 7 authorities, the Executive Council being one of them, which is not disputed as the authority concerned, as regards operation of Section 14(9).

That being so, this petition is allowed and the impugned order Annexure P-13 is hereby quashed, with liberty to the respondents to proceed as per law.

(AMOL RATTAN SINGH)
JUDGE

December 04, 2017.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No