

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.: 118

Civil Writ Petition No.26695 of 2017

Date of Decision: November 22, 2017

GULSHAN RAI SENGER

..... PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

..... RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Rahul Gautam, Advocate, for the petitioner.

. . .

Jaspal Singh, J

Through the instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Mandamus directing the respondents to take action including stoppage of grant-in-aid of the private respondent-College as its Managing Committee has failed to implement the judgment dated July 11, 2017 (P-2) passed by worthy Educational Tribunal, Punjab.

2. Concededly, vide judgment dated July 11, 2017 (P-2), learned Educational Tribunal dismissed an appeal preferred by the respondent-College and directed the College to notionally reinstate the petitioner and pay arrears of salary from the date of his alleged termination upto the date of superannuation, along with arrears of salary due for the period of suspension. Further, a direction was also issued to the respondent-College

to pay all the retiral benefits to the petitioner within a period of two months.

However, despite the fact that a period of more than four months have elapsed of the passing of the judgment dated July 11, 2017, respondent-College has not even released a single penny to the petitioner, which necessitated the filing of the instant petition.

3. First of all, before proceeding further to deal with and decide the matter, the question which arises for consideration is whether the instant civil writ petition is maintainable and the answer to this question is negative in view of Section 9-a of the Punjab Affiliated Colleges (Security of Service of Employees), Act 1974 (for short 'Act of 1974') as amended upto February 15, 2008. "Educational Tribunal" has been constituted in pursuance of Act of 1974, Section 9-a provides the remedy in case of wilful disobedience or non compliance with the orders passed by the Educational Tribunal, by the Management. Section 9-a reads ut in fra:-

"If any Managing Committee fails to carry out any order of the Educational Tribunal or any direction of the Director under this Act, the State Government may take such action as it may think fit including stoppage of the grant-in-aid."

4. A glance at the aforesaid provision makes it crystal clear that if any Managing Committee fails to carry out any order of the Educational Tribunal or any direction of the Director under the Act, the State Government may take such action as it may think fit including stoppage of the grant-in-aid. When a specific remedy has been provided, no such writ petition lies for execution of any order passed by the Educational Tribunal. If there is non-compliance of the order passed by the Educational Tribunal, the petitioner can move to it and the matter can subsequently be taken up with the State Government. Thus, instant petition does not lie for giving

any direction to the respondent to take an action against the Management, especially with regard to the implementation of the order or direction passed by the learned Educational Tribunal. Instant petition is not maintainable. Accordinlgy, it stands dismissed.

5. However, petitioner shall be at liberty to approach the competent authority(s) for redressal of his grievance(s).

November 22, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No