

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

**CR No.3691 of 2018 (O&M)
Date of decision : May 30, 2018**

Managing Committee, DAV Senior Secondary School, Shahbad

..... Petitioner

Versus

Mukesh Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ajaivir Singh, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 08.05.2018 (Annexure P-7) as well as the order dated 14.05.2018 (Annexure P-9) passed by the learned District Judge, Kurukshetra, whereby the warrants of sale of attached property have been issued and application for recalling the said order has been dismissed.

It comes out that the Education Tribunal, presided over by the learned District Judge, Kurukshetra, vide order dated 04.12.2015 (Annexure P-1), *inter alia*, allowed 50% of back wages payable to appellant Nos.1 to 6 by respondent No.4 i.e. present petitioner. The writ against the said order was filed, which has been dismissed and the LPA is pending, in which no stay regarding payment of back wages by respondent No.4 has been granted. The execution was filed. In the earlier round of litigation, this Court dealt with the matter in detail vide order dated 07.03.2018 passed in CR Nos.

5880, 8727 and 9074 of 2017 and directed the District Education Officer, Kurukshetra to make the calculations regarding the amount payable to the decree holders in terms of the decree passed by the learned District Judge, Kurukshetra and submit the same to the Executing Court within fifteen days and thereafter, JDs were given four weeks time to pay the said amount to the decree holders. However, it was also made clear that if the said amount is not paid, no extension of time will be granted and the properties attached shall be again put to sale.

Accordingly, the District Education Officer, Kurukshetra submitted the calculations within the said time. The said calculations were taken on record by the learned District Judge, Kurukshetra. However, the decree holders before the Executing Court claimed that the amount is deficient. Therefore, they were given liberty to file their own calculations. In any case, the JD did not make the payment within four weeks as ordered by this Court, and therefore, the learned District Judge, vide order dated 08.05.2018, ordered the sale of the attached property and fix the date for issuing of proclamation and auction. The JD filed the application for recalling of the said order dated 08.05.2018 (Annexures P-7). The said application was dismissed on 14.05.2018 (Annexure P-9), in view of the fact that this Court has specifically ordered that if the payment is not made within four weeks, no extension of time will be granted and sale of the attached property shall be carried out.

Heard.

Contention of learned counsel for the petitioner is that the amount is to be shared in the ratio of 25:75 by the present petitioner and the State respectively. Therefore, the State be notified.

It is further stated that the amount calculated by the District Education Officer is excessive.

I am of the view that while passing the order dated 07.03.2018, this Court considered the entire controversy. As per order of the Education Tribunal presided over by the learned District Judge, Kurukshetra, 50% of the back wages are to be payable by the present petitioner. Now the petitioner can not say that the State should burden the funds of 75% of the said arrears. The District Education Officer had made the calculations. Prima facie, at the first instance, the amount in terms of the said calculations is required to be paid. Therefore, there is nothing illegal in the impugned order.

Learned counsel for the petitioner has further contended that J.D.-institution is unable to pay the said amount, which is around to ₹1,94,00,000/-.

I am of the view that the JDs were given sufficient time to make the payment. If they could not raise the money, they should blame themselves for the same. There is no ground to interfere in the impugned order.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

May 30, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No