

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 16363 of 2018

Date of decision : November 12, 2018

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Dr. Brijender Singh Dhillon

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Ramesh Goyat, Advocate for respondents no. 2 to 5.

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RITU BAHRI, J.

The petitioner is seeking writ of certiorari for quashing the order dated 12.6.2018 (Annexure P-19) passed by the Vice Chancellor of Pt. B.D Sharma University of Health Sciences, Rohtak, whereby the services of the petitioner has been placed under suspension by invoking the emergency powers of the Vice Chancellor under Section 14(9) of the Pt. B.D Sharma University of Health Sciences Act, 2008 pending enquiry and criminal case lodged against the petitioner vide FIR No. 314 of 2018 at Police Station Sampla in anticipation of approval of the Executive Council.

Petitioner-Dr. Brijender Singh Dhillon was working as Senior

Professor and Head, Department of Hospital Administration, PGIMS,

Rohtak in Pt. BDS University of Health Sciences, Rohtak, Haryana. In the year 2010 an enquiry committee was constituted comprising three senior professors vide office order dated 29.1.2010. The enquiry Committee after recording the statement of the petitioner and other officials working in the births and deaths Section submitted its enquiry report on 07.5.2010 and reported that some of the blank birth and death certificates issued on 19.1.2010 had been signed by the petitioner and other officials concerned who had acknowledged their signatures. The then Vice Chancellor after going through all the relevant records including the apology tendered by the petitioner in writing ordered to issue him the punishment of 'Strict Warning' vide order dated 18.6.2012 (Annexure P-1) and filed the matter. On 7.1.2016 an anonymous complaint (Annexure P-2) was made against the petitioner regarding the same allegations. The Additional Chief Vigilance Officer had written to the Director vide letter dated 21.1.2016 (Annexure P-3) regarding the complaint made with regard to the death and birth certificates. The said complaint was also referred to the Police Station, PGIMS, Rohtak. The enquiry officer of the police conducted the enquiry and reported vide Annexure P-4 that no policy enquiry is warranted and the matter be filed. Petitioner made a representation on 8.3.2016 (Annexure P-6) not to take action on the anonymous complaint. An anonymous complaint was also made to the CM Office and after enquiring the same, the Supdt. Of Police Rohtak reported vide letter dated 11.2.2017 (Annexure P-7) to the Director General of Police that the complainant had not given his correct address, therefore, he could not be contacted for the purpose of inquiry.

Vide letter dated 15.7.2016 (Annexure P-8), the petitioner was directed by the Additional Chief Vigilance Officer to be present on 16.7.2016 at 11:00 A.M in his office for the purpose of inquiry. The petitioner made a representation dated 15.7.2016 (Annexure P-9) to the Director, PGIMS, Rohtak stating therein that Dr. R.B Singh, the then Additional Chief Vigilance Officer was strongly biased against him and he did not want to appear before him. Thereafter, Sh. R.P Bhasin Distt. & Sessions Judge was appointed as enquiry officer to look into complaints made regarding irregularities and illegalities by Dr. C.S Dhull and then Director PGIMS, Rohtak and Dr. S.S Sangwan, the then Vice Chancellor. He issued a letter dated 19.4.2017 (Annexure P-10) to the Vice Chancellor to ensure the presence of the petitioner during the conduct of the proceedings. The petitioner gave his representation dated 1.5.2017 (Annexure P-11) to Mr. R.P Bhasin. Vide letter dated 18/20.9.2017 (Annexure P-12), Additional Chief Secretary to the Government of Haryana Medical Education and Research Department, Chandigarh had issued directions to the Director, PGIMS, Rohtak for placing the petitioner under suspension. In compliance of this letter, Vice Chancellor vide order dated 27.9.2017 (Annexure P-13) placed the petitioner under suspension. The petitioner made representation dated 2.10.2017 (Annexure P-14) against the said suspension order. The petitioner also challenged the said suspension order by way of filing CWP No. 25979 of 2017, which was allowed by this Court vide order dated 4.12.2017 (Annexure P-15). Thereafter two charge sheets were issued to the petitioner one dated 17.11.2017 (Annexure P-16) and another dated

22.11.2017 (Annexure P-17). The petitioner gave his replies to both the charge sheets. On 5.6.2018, one ex-employee of the University committed suicide and FIR was registered in which the petitioner was also named. At this stage, the vice Chancellor vide order dated 12.6.2018 (Annexure P-19) while exercising powers under Section 14(9) of Pt. B.D Sharma University of Health Sciences Act, 2008 placed the petitioner under suspension with immediate effect pending enquiry and criminal case lodged against him vide FIR No. 314 of 2018 at Police Station, Sampla in anticipation of approval of the Executive Council. It is this order which is subject matter of challenge in the present writ petition.

Counsel for the petitioner has argued that the petitioner has been suspended as FIR No. 314 of 2018 has been registered against him with the allegations of abetment of suicide attributed to the petitioner. On 10.7.2018 when the matter was taken up for hearing, the Counsel for the University had put in appearance and stated that after passing of the impugned order, the Executive Council has not taken any steps to refer the matter to the Vice Chancellor. Another query was put to the counsel as to whether any complaint was made before FIR was registered by the complainant-Mamta to the University that the petitioner was harassing her husband who was earlier working with the University as a Sweeper. Counsel for the University sought an adjournment to file a reply in this regard.

Thereafter, a reply has been filed on behalf of respondents no. 2 to 5 taking a stand therein that in compliance of the order passed by this

Court on 4.12.2017 in CWP No. 25979 of 2017, the petitioner was permitted to join his duties subject to outcome of the disciplinary proceedings pending against him. Thereafter a meeting of the Selection Committee for appointment of Assistant professor in Hospital Administration on contract basis was held on 4.6.2018. The petitioner was also a member of the aforesaid Selection Committee. One candidate for the aforesaid post namely Dr. Ravinder Ahlawat, who was working as regular employee in the HCMS cadre, could not produce a valid NOC from the Government for appearing in the interview. In view of the non-availability of a valid NOC, all the members of Selection Committee, except the petitioner, felt that Dr. Ravinder Ahlawat was not eligible to participate in the interview. But, petitioner used unparliamentary and derogatory language and disturbed the decorum of the Selection Committee proceedings and left the Selection Committee Room in a huff. The other Members gave in writing (Annexure R/2-1) that the petitioner misbehaved with Vice Chancellor and other members of the Selection Committee. Vide letter dated 13.9.2017, a Committee was constituted for conducting regular enquiry with regard to missing of a baby on 10.9.2017 from Labour Room, PGIMS, Rohtak. The Committee submitted its report dated 19.9.2017 stating that this incident might have occurred mainly because of non-functioning of CCTVs. The petitioner being Head of the Department of Hospital Administration was held responsible for non-functioning of CCTVs. Therefore, the petitioner was served charge sheet dated 22.11.2017 (Annexure P-17) for aforesaid omission and commission. It is further stated

in the reply that Smt. Mamta made a complaint dated 8.6.2018 (Annexure R-2/2) against the petitioner and Prem Singh Pharmacist to the effect that they threatened her husband to give false evidence before the Court in the case of scam of medicines. Due to their pressure, her husband committed suicide. In this backdrop, FIR bearing No. 314 dated 5.6.2018 (Annexure P-18) was registered against the petitioner in Police Station Sampla. On receiving the aforesaid complaint dated 8.6.2018, the Vice Chancellor vide order dated 12.6.2018 (Annexure P-19) placed the services of the petitioner under suspension. Another complaint dated 11.6.2018 (Annexure R-2/3) was made by one Vikas Kumar to the Vice Chancellor against the petitioner that on 7.6.2018, during strike of non teaching employees of University, petitioner addressed and instigated the non teaching employees against the authorities by saying that they should continue the strike and he is with them. On account of the report of the Selection Committee dated 4.6.2018 (Annexure R-2/1) complaint dated 8.6.2018 (Annexure R-2/2) and complaint dated 11.6.2018 (Annexure R-2/3), the Vice Chancellor had rightly exercised his power Under Section 14 (9) of Pt. B.D Sharma University of Health Sciences Act, 2008 and suspended the petitioner vide order dated 12.6.2018 (Annexure P-19).

The petitioner has filed a replication dated 20.8.2018 to the written statement filed on behalf of the respondents no. 2 to 5. It has been submitted in the replication by the petitioner that he has made a representation to the Chairman of the Executive Council on 7.7.2018 (Annexure P-21) requesting the revocation of the suspension order dated

12.6.2018 (Annexure P-19). It is further stated in the replication that no complaint was made by the Complainant, Mamta to the University before the registration of the FIR on 5.6.2018. Moreover, examples have been given of some of the employees who had not been suspended even after registration of FIRs, in which they were named. Even Prem Pharmacist has also not been suspended by the Vice Chancellor. It has finally been submitted in the replication that once he had been issued warning vide order dated 18.6.2012 (Annexure P-1), a fresh enquiry on the same cause of action has been initiated by a biased mind. He has further submitted in the replication that he never misbehaved with the Vice Chancellor and other members of the Selection Committee in the case of interview conducted for the selection on 3 posts in the department of the petitioner. He has placed on record the complaint made by a candidate Dr. Ravinder Ahlawat dated 27.6.2018 (Annexure P-22) that he has wrongly not been considered for appointment only on the frivolous ground of not having a NOC. With regard to the complaint made on account of a missing child, FIR was got registered against some other person in which petitioner has not been named. As far as the negligence in having CCTV system in order, it was the duty of Head of the Department of Gynae to ensure that the CCTV System should have been functioning. In this backdrop, a warning has been issued to Dr. Smiti Nanda vide order dated 22.6.2018 (Annexure P-23) passed by the Vice Chancellor. Petitioner has further submitted that on 7.6.2018, due to the strike of the non-teaching employees, the patient were suffering a lot and the petitioner had only gone to the striking employees to pursue them

not to go on strike as patients are suffering.

Heard counsel for the parties and thoroughly gone through the records of the case. FIR No. 314 of 2018 at Police Station Sampla was registered on 5.6.2018 in the present case when a person namely, Sanjay, who was earlier working as a sweeper in the University committed suicide and the petitioner was named along with one Prem Pharmacist. The respondents in the written statement have also placed on record copy of the complaint dated 8.6.2018 (Annexure R-2/2) made by Mamta wife of late Sanjay to the Vice Chancellor of the University. The impugned order (Annexure P-19) has been passed on 12.6.2018, keeping in view that a complaint (Annexure R-2/2) was made by the complainant Mamta herself on 8.6.2018. The FIR is at the investigation stage and the complaint dated 8.6.2018 made to the Chancellor, University of Health Sciences has been considered and made basis for suspension order dated 12.6.2018 (Annexure P-19) passed by the Vice Chancellor in exercise of power under Section 14 (9) of Pt. B.D Sharma University of Health Sciences Act, 2008. Sub clause 9 of Section 14 of the Act is an explanation whereby Vice Chancellor can exercise his powers to suspend an employee till the meeting of the authorities concerned. Sub clause 9 of Section 14 of the Act is hereby reproduced as under:

*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.

In view of all that has been discussed above and in view of the power bestowed upon the Vice Chancellor under Section 14 (9) of the Act, in the opinion of the Court, the impugned order dated 12.6.2018 (Annexure P-19) does not suffer from any illegality or infirmity. Writ petition is hereby dismissed.

November 12, 2018

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**(RITU BAHRI)
JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No