

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 292

Civil Writ Petition No.29398 of 2017 (O & M)

Date of Decision: May 21, 2018

Dr. Gurdev Singh Virk

..... PETITIONER

VERSUS

State of Haryana & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

PRESENT: - Mr. Tribhuvan Dahiya, Advocate, for the petitioner.

Mr. Ram Tilak Redhu, Deputy Advocate General,
Haryana.

Mr. Rajdeep Singh Cheema, Advocate, for respondent
No.3.

Mr. Jatin Salwan, Advocate, for respondent No.4.

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Jaspal Singh, J

Through the instant petition moved under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of certiorari, quashing memorandum dated November 20, 2017 (Annexure P-10) alongwith all consequential proceedings whereby he has been chargesheeted and regular enquiry has been ordered for alleged misconduct in availing house rent allowance amounting Rs. 1,27,542/- from State Government from January 2011 to December 2012, and further, that amount has already been recovered in compliance of order dated December 20, 2016 (Annexure P-8) passed by respondent No.2.

In response to notice of motion issued by this Court, respondent Nos.3 and 4 have filed separate replies to the writ petition.

The preliminary question which emerges for decision in view of claim raised in the petition as well as replies filed by respondent Nos.3 and 4 is to the effect that this Court has got the jurisdiction to adjudicate the controversy involved in the petition or the jurisdiction solely lies on the Educational Tribunal, constituted pursuant to judgment of Hon'ble Apex Court reported as **T.M.A. PAI Foundation & others vs. State of Karnataka & others, 2002 8 SCC 481.**

Undoubtedly, in the instant case, dispute is in between the Management i.e. respondent No.3 – Governing Body of DAV College, Pundri and its employee. The parties are governed by the provisions contained in the Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 (for short, 1974 Act') for redressal of their grievances, if any. Such a question came before this Court in CWP No.8415 of 2006 titled 'A.S. Bedi vs. Panjab University and others', decided on March 21, 2018 and keeping in view the judgment earlier passed in CWP No.6702 of 2016 titled 'Raj Kumar vs. State of Punjab & others' decided on April 08, 2016, writ petition was disposed of observing that this Court has no jurisdiction and petitioner was set at liberty to approach the competent authority/Education Tribunal for necessary relief.

Adverting to the facts of the case in hand, when dispute is in between the Management and the employee, and efficacious remedy is available, this Court is not obliged to adjudicate the matter under Article 226/227 of the Constitution of India.

In the light of aforesaid discussion, instant writ petition is disposed of with liberty to the petitioner to approach the competent authority/ Education Tribunal, if he so desires.

May 21, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No