

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

LPA-1443-2018 (O&M)

Date of decision:- 20.09.2018

National Institute of Pharmaceutical Education &
Research (NIPER), Mohali and another
...Appellants

Versus

Chairman Board of Governors, NIPER, Mohali and others
...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. Puneet Bali, Senior Advocate,
with Mr. Amar Vivek, Advocate,
and Mr. Arun Gupta, Advocate,
for the appellants.

Mr. Rohit Ahuja, Advocate,
for the caveator-respondents No. 1 and 2.

Mr. Rajiv Atma Ram, Senior Advocate,
with Mr. Sube Sharma, Advocate,
for the caveator-respondent No. 3.

Mr. Satya Pal Jain, Additional Solicitor General of India,
with Mr. Dheeraj Jain, Advocate for Union of India.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under Clause X of the Letters Patent is directed against the judgement and order dated 12.09.2018 passed by learned Single Judge dismissing the writ petition as not maintainable.

2. The facts relevant for the purposes of this case in nutshell can be capitulated as under:-

Petitioner-appellant No. 2 is the Director of National Institute of Pharmaceutical Education & Research (hereinafter referred to as NIPER). Vide order

dated 13.06.2018, he placed respondent No. 3 – Registrar, NIPER under suspension. The order was passed in his capacity as the competent authority. The order was challenged in appeal by respondent No. 3 before Chairman, Board of Governors, NIPER. Vide order dated 14.06.2018, the appeal was allowed and the suspension was revoked. The said order was challenged before this Court by filing the writ petition by NIPER through its Director. Before the learned Single Judge, it was conceded that the writ petition on behalf of petitioner No. 1 therein, namely, NIPER was not maintainable. In so far as petitioner No. 2 is concerned, it was vehemently contended apart from other facts that the order records lot of observations and strictures against him which could not have been done without a notice and opportunity. Learned Single Judge though held the writ petition to be not maintainable on behalf of petitioner No. 2 as well, but further went on to observe that the observations recorded in the order passed by Chairman, Board of Governors, shall not be taken as strictures against petitioner No. 2.

3. In so far as the view taken by the learned Single Judge with respect to maintainability of the writ petition challenging the order passed by the appellate authority setting aside the order passed by petitioner No. 2 in his capacity as the competent authority, it is well settled that the petition was not maintainable and no exception can be taken to the view formed by the learned Single Judge.

4. In so far as observations or strictures in the appellate order without any notice is concerned, learned Single Judge has taken care to observe that any such observations recorded in the order passed, shall not be taken as strictures against petitioner No. 2.

5. Mr. Puneet Bali, learned senior counsel appearing for the appellants, contends that observation made in the impugned judgement: "rather the same is just decision on facts and making the facts more clear" is contrary to the latter part of the observation that the same "shall not be taken as strictures against petitioner No. 2".

6. In so far as this aspect of the matter is concerned, we hereby clarify that any observations, strictures or comments made in the order of the appellate authority pertaining to the petitioner-appellant No. 2 in his capacity as Director of NIPER, shall stand expunged from the record.

7. During the course of hearing of the matter, Mr. Rajiv Atma Ram, learned senior counsel appearing for respondent No. 3, has made a statement that he is no more functioning as Registrar of NIPER having been removed by the petitioner-appellant No. 2 vide order dated 31.07.2018.

8. Once this is the factual position, the suspension order having come to an end after his removal from the service, the issue pertaining to merits of the order passed in appeal loses its significance and is practically rendered infructuous.

9. At this stage, learned senior counsel for the appellant raised certain arguments in respect of the meeting of the Board of Governors which was initially scheduled on 25.06.2018 and under interim order passed by the learned Single Judge during the pendency of the writ petition was adjourned and now is scheduled to be held for today. We find from the record and it is not being disputed by learned senior counsel for the appellants that though a prayer in this regard was made in the writ petition, but neither the same was raised nor pressed before the learned Single Judge. Therefore, any argument in this regard is outside the scope of this intra

court appeal. Since the issue with respect to the legality and validity of the meeting of the Board of Governors has neither been raised before learned Single Judge, nor pressed, nor adjudicated and merely because a prayer has been made in this regard in the writ petition shall not stand in the way of the petitioner-appellant No. 2 in case any challenge is to be made in respect of the same in future.

10. With the aforesaid observations and directions, the appeal stands disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

20.09.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No