

203/2 cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

DATE OF DECISION: 23.09.2019

1. COCP-3295-2015

SHIV PRABHAKAR AND ANOTHER

...PETITIONERS

vs.

C.RAOUL AND ANOTHER

...RESPONDENTS

2. COCP-2691-2016

BALWINDER SINGH AND OTHERS

...PETITIONERS

vs.

BALBIR SINGH DHOL

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Armaan Gagneja, Advocate for
Mr. Munish Gupta, Advocate
for the petitioners in COCP-3295-2015.

Mr. D.S.Rawat, Advocate
for the petitioners in COCP-2691-2016.

Ms. Deepali Puri, Addl. AG, Punjab.

AVNEESH JHINGAN, J. (Oral)

This order shall dispose of two contempt petitions.

The writ petition was filed by some of the Masters and Mistresses challenging the vires of Appendix-B to Punjab State Education Class-III (School Cadre) Services Rules, 1978 (for short '1978 Rules'). The vires were not gone into as the State produced some proposed Amendments, it was intending to bring in the rules.

Learned counsel for the petitioners made a statement that if the proposed Amendment is carried out, it will take care the interest of the

petitioner substantially. In view of the statement, no directions were issued except that the proposed Amendments shall be made within two months.

The present petitioners filed CWP No. 15408 of 2016. It was noted by the Writ Court that the contempt petition for non-compliance of order dated 12.02.2013, is already pending. Further it was considered that only when the proposed Amendment in the Rules is taken to its logical conclusion, the petitioners can possibly have a fresh cause of action. The writ petition was dismissed as premature with liberty to the petitioners to pursue the contempt petition and thereafter, if need be, to file a fresh petition.

The contention raised by the learned counsel for the petitioner in the contempt petition is that the undertaking given before this Court was not adhered to as the proposed Amendment was never made. He further states that new rules i.e. Punjab Educational Service (School and Inspection) Group 'B' Service Rules, 2018 (for short '2018 Rules') and Punjab Educational Service (School and Inspection Border Area) Group 'B' Service Rules, 2018 have been enacted which are also similar to the earlier rules and the grievance of the petitioner with regard to the vires of the rules remains un-addressed

Learned State counsel contends that the proposed Amendment was considered but after doing taking interaction with various affected parties in the meeting held on 04.08.2017, it was decided that the proposed Amendment cannot be done and the same was dropped. She further states that 1978 Rules have been repealed and 2018 Rules have been made. She further states that Amendment cannot be done to the repealed rules.

The contentions made by the learned counsel for the petitioner

are not well founded and cannot be gone into the present contempt proceedings.

There were no directions by this Court to make amendment. The writ was disposed of only on statement that Amendment is proposed to be made.

The decision of the State not to bring the proposed Amendment to its logical conclusion, only gave a fresh cause of action to the petitioner to revive the challenge to the vires of the 1978 Act.

It would be pertinent to note, at this stage, that 1978 Rules have been repealed in 2018 and have been followed by 2018 Rules. The contention of the petitioner that 2018 Rules similar to 1978 Rules does not fall into the ambit of the contempt petition, if aggrieved the petitioner can pose challenge to Rules of 2018.

In the contempt proceedings, it is settled law that the contempt Court has to restrict itself within the four corners of the orders passed, alleged to be violated.

In view of the above, no case is made out for wilful disobedience of the directions of this Court.

The contempt petition is dismissed.

Rule issued against respondents is discharged.

23rd September, 2019
shabha

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : *Yes*

Whether reportable : *Yes*