

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1112-2017

Date of decision:09.01.2019

Abhey Singh

...Petitioner

V/s.

Addl. District Judge-cum-Educational Tribunal,
Narnaul and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Sandeep Dhull, Advocate for the petitioner.

Mr. Munish Mehta, Advocate for respondent No. 2.

RITU BAHRI, J. (Oral).

By this petition, the petitioner is seeking quashing of order dated 04.10.2016 (Annexure P-4).

Learned counsel for the petitioner has referred to the order passed by this Court in ***CWP-5926-1998 Om Parkash V/s. The maharaj Agrasen Institute of Medical and others***, decided on 27.03.2015 (Annexure P-5) whereby after constitution of Education Tribunal, all pending cases were transferred from this Court to the Tribunal. Learned counsel for the petitioner further states that the termination in the case of Om Parkash had taken place prior to 1998 and after constitution of the Tribunal, that writ petition was transferred to District and Sessions Judge, Hisar.

In the present case, the petitioner was terminated on 05.05.2011 and Educational Tribunal has wrongly dismissed the appeal by observing that the Tribunal has no jurisdiction to entertain this appeal as the notification dated 07.05.2013 cannot be made applicable retrospectively. As far as this notification is concerned, the Division Bench of this Court in the case of ***CR No. 4315 of 2012 Management of S.D. Model***

Senior Secondary School and another V/s. District Judge-cum-Service Tribunal and another (Annexure P-6) has referred this notification which only clarifies that till the Tribunals are constituted, the appeal shall be heard by District and Sessions Judge. It does not say that till the constitution of Tribunal, the appeal cannot be heard by District and Sessions Judge. Hence, in the present case, the Tribunal has wrongly interpreted the notification dated 07.05.2013 and dismissed the appeal of the petitioner.

Keeping in view the aforesaid Division Bench Judgment passed by this Court and the directions given by this Court in **CWP-5926-1998 Om Parkash V/s. The maharaj Agrasen Institute of Medical and others** (Annexure P-5), this writ petition is being allowed. Order of the Tribunal dated 04.10.2016 (Annexure P-4) is being set aside and the matter is being remanded back to the Additional District Judge, Narnaul to hear the appeal on merits.

Registry is directed to send the paperbook of the case to Additional District Judge, Narnaul. Parties are directed to appear before that Court on 08.02.2019.

09.01.2019
Divyanshi

(RITU BAHRI)
JUDGE

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