

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.3880 of 2016 (O&M)

Date of Decision:13.03.2019

The Post Graduate Institute of Medical Education

. Petitioner

Vs.

Union of India and others

. Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE HARNARESH SINGH GILL**

Present: - Mr.Rajesh Garg, Sr. Advocate, with
Ms.Nimrata Shergill, Advocate,
for the petitioner.

Mr.Arun Gosain, Advocate,
for respondents No.1 to 3.

Ashwani Kumar Munjal, for respondent No.4.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed by the Post Graduate Institute of Medical Education, Chandigarh [for short 'the PGI'] to challenge the notification dated 12.12.2014 and also for setting aside the prosecution launched by respondent No.2 against the principal employers of the PGI which is pending in the Court of Chief Judicial Magistrate, Chandigarh.

In brief, respondent No.1 had issued a notification dated 12.12.2014 prohibiting the implementation of contract labour in the job of (i) Sanitation Services (cleaning, sweeping and dusting), (ii) Security Services (watch and ward of the institute) and (iii) Catering Services to the admitted patients in the establishment of Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh in view of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 [for short 'the Act']

Apropos, the Department of Labour, Chandigarh started prosecution against the employer of the petitioner on the premise that they have not adhered to the notification dated 12.12.2014 in its letter and spirit.

Aggrieved against the said circumstance, the present petition has been filed for seeking the aforesaid prayer.

Though it is argued by learned senior counsel for the petitioner that on the one hand the posts are not being sanctioned by the Ministry of Health and Family Welfare, Government of India and on the other hand, respondent No.1 is pressing hard to follow the notification dated 12.12.2014. He has rather suggested that Secretaries of both the Ministries may sit together and find out the solution of this problem because there is a heavy footfall of patients in the PGI for whom the services of sanitation, security and catering are required.

Ashwani Kumar Munjal, appearing on behalf of respondent No.4 has submitted that respondent No.1 has issued a notification bearing No. SO.5186(E) on 9.10.2018 by which the petitioner-institute has been exempted from the applicability of the impugned notification dated 12.12.2014 for a period of 2 years. The text of the said notification dated 9.10.2018 read as under: -

“In exercise of the powers conferred by Section 31 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), the Central Government, after consultation with the Ventral Advisory Contract Labour Board, hereby exempts the Post Graduate Institute of Medical Education and Research (PGIMER) from

the applicability of notification of the Government of India in the Ministry of Labour Number S.O. 3161(E) dated the 12th December, 2014, published in the Gazette of India, Part II, Section 3, Sub Section (ii), dated the 12th December, 2014, in respect of employment of contract labour in the works and jobs of (i) Sanitation Services (cleaning, sweeping and dusting), (ii) Security Services (watch and ward of the institute) and (iii) Catering Services to the admitted patients in the establishment of Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh for a period of two years with effect from the date of publication of this notification in the Official Gazette, subject to the conditions that the hospital management will ensure that the contract workers are paid wages and other facilities equal to the lowest paid regular worker performing similar work in the establishment in terms of sub-clause(a) of clause(V) of sub-rule (2) of rule 25 of the Contract Labour (Regulation and Abolition) Rules, 1971 and the Board will have the right to inspect the establishment

to ensure and check whether such wages and benefits are given and the above said conditions are implemented by the establishment.”

In view thereof, learned counsel for the petitioner has submitted that the present petition has become infructuous at this stage and it is prayed, at the instance of the petitioner, that the prosecution, which has been launched against the principal employer of the petitioner-institute, may also be set aside.

We order accordingly because the prosecution against the principal employer of the petitioner was initiated in terms of the notification dated 12.12.2014 which is now no more applicable to the petitioner-institute in view of the notification dated 9.10.2018 though for a period of two years. It is needless to mention that the consequential compliance of the notification dated 9.10.2018, refer to above, would be done by the petitioner.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

13.03.2019
Vivek

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*