

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CACP-27-2019

Date of Decision : 30.09.2019

Gurinder Singh Dua and another

.....Petitioners

Versus

Dr. Ashwani Kumar and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Rajesh Garg, Advocate with
Ms. Nimrata Shergill, Advocate for the appellants.

RAKESH KUMAR JAIN, J. (ORAL)

This appeal is filed against the order dated 29.08.2019 passed in COCP No.1040 of 2019 by which the President and General Secretary of the petitioner's Society have been directed to be present in the Court to show cause as to why they should not be proceeded against for violating the orders of this Court.

At the outset, we have asked the counsel appearing on behalf of the appellants as to how the appeal under Section 19 of the Contempt of Courts Act, 1971 is maintainable against the impugned order in view of the decision of Hon'ble Supreme Court in the case of ***Midnapore Peoples' Coop. Bank Ltd. and others Vs. Chunilal Nanda and others : 2006 (5) SCC 399.***

Counsel for the appellants has though argued vehemently that the order of the Education Tribunal by which the order of termination of service of the respondents has been set aside and they have been ordered to be reinstated alongwith 50% backwages is an executable order in terms of Section 9-A of the Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 (for short the Act) and also this Court has not passed any direction for which a contempt petition has been filed. However, keeping in view the law laid down by Hon'ble Supreme Court in para 11 of the aforesaid decision in the case of ***Midnapore Peoples' Coop. Bank Ltd. and others (supra)***, the present appeal is found to be not maintainable under Section 19 of

the Act but the appellants may, if so advised, file an intra-court appeal in view of the decision of Hon'ble Supreme Court in the aforesaid judgment which reads as under:-

“If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).”

Counsel for the appellants has submitted that in any case the learned contempt Court has given a direction for the petitioners to appear and to show cause as to why proceedings under the Contempt of Courts Act, 1971 be not initiated against them and, therefore, it would fall within the definition of direction issued on the merits of dispute relating to the parties under contempt proceedings.

In view of the aforesaid discussion, while holding that the appeal is not maintainable under Section 19 of the Contempt of Courts Act, 1971, liberty is granted to the appellants to avail remedy of filing of an intra-court appeal in terms of Clause 10 of letters patent before this Court against the order passed by learned Single Judge on 29.08.2019.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

30.09.2019
Kothiyal

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