

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

**Date of decision: 24.01.2019**

**1.**

**CWP No.1664 of 2019**

Administrator, Halwasiya Vidya Vihar Senior Secondary School, Bhiwani  
and others

...Petitioners

Versus

Presiding Officer, School Education Tribunal-cum-learned District &  
Sessions Judge, Bhiwani and others

...Respondents

**2.**

**CWP No.2026 of 2019**

Administrator, Halwasiya Vidya Vihar Senior Secondary School, Bhiwani  
and another

...Petitioners

Versus

Presiding Officer, School Education Tribunal-cum-learned District &  
Sessions Judge, Bhiwani and others

...Respondents

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Shreenath A. Khemka, Advocate,  
for the petitioner(s) (in both the petitions).

Mr. Lakshman Sharma, Advocate,  
for respondent No.2-caveator.

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**Ritu Bahri, J.**

This order will dispose of CWP No.1664 of 2019 and CWP  
No.2026 of 2019 together as common questions of law and facts are  
involved in both the petitions. For reference, facts are being taken from  
CWP No.1664 of 2019.

Petitioners are seeking quashing of the impugned order dated

appeal filed by respondent No.2 has been accepted and he was ordered to be reinstated with back wages.

Learned counsel for respondent-caveator has referred to the judgment dated 22.07.2016 passed by this Court in CWP-13890-2016, titled as **Managing Committee, Halwasia Vidya Vihar Senior Secondary School, Bhiwani and another vs. State of Haryana and others**, whereby writ petition filed by the petitioners against the award of the Educational Tribunal have been dismissed. Even in that case, employees had been terminated along with present respondent No.2 on the ground that strength of students had decreased in the school. However, the Tribunal had found that even after September, 2013, the Managing Committee had appointed new teachers and there was nothing adverse against the respondent-teachers during their entire service tenure and the teachers were fully qualified to hold their respective teaching classes. The Tribunal had further noticed that some juniors to the appellants had also been retained in service. This Court had upheld the award passed by the Tribunal and dismissed the aforesaid writ petition along with two connected petitions.

Learned counsel for respondent-caveator has further informed that the aforesaid judgment has attained finality and those teachers have already been retained. Learned counsel for the petitioners has not been able to dispute this fact. However, he has referred to the judgment dated 31.08.2018 passed by Hon'ble the Supreme Court in **Kailash Singh vs. The Managing Committee, Mayo College, Ajmer and others**, Civil Appeal No.6409 of 2017, to contend that a private unaided educational institute must enjoy autonomy in its management and administration. In a Government-aided institution, the Government may have a greater say in the

administration, while in the case of unaided institutions, maximum autonomy in day-to-day administration is to be with the private unaided institution as relationship between the management and employee is contractual in nature.

However, a perusal of above said judgment shows that services of the teachers have been terminated on the ground of misconduct. In that case, a show cause notice had been issued to the teachers in the backdrop that when annual function of the college was being held on 23/24.10.2000, they had instigated other staff members not to go to work and created disturbances, causing grave embarrassment to the institution. In their reply to the show cause notice, the teachers had defended their actions by claiming that they had a right to organise dharnas and protests, as a constitutional right, and that strike and sloganeering should not be stopped. It was stated that even the adjectives used i.e. *Murdabad* etc. were adjectives of common parlance in such agitations and cannot be said to be derogatory, and that a proper inquiry should be held qua their conduct. The non-payment of bonus was claimed to be an “administrative fanaticism.” Keeping in view the reply, unanimous resolution was passed by the Board of Governors on 7/8.11.2000 to terminate the services of the teachers and they were dismissed thereafter. Keeping in view the above backdrop, Hon'ble the Supreme Court held that the Managing Committee, after passing of the resolution, was bound to consent of the Director of Education, which they did not do. Accordingly, the appeal was dismissed by observing that the college was recognized institution, but was not financially aided in any manner by the Central or the State Government.

The facts of the aforesaid judgment are not applicable on the

present case because a finding has been given by the Tribunal that after terminating the services of respondent No.2 and other 09 employees, the reason given was that there was reduction in the strength of students in the institution. However, subsequently after 2013, new teachers were appointed. In this view of the matter, the Tribunal has rightly accepted the appeal of respondent No.2.

Learned counsel for the petitioners has further referred to the service rules for employees under the Central Board of Secondary Education, which are to be followed by each school affiliated with the Board. As per Section 29, termination of services can be done due to abolition of posts etc. Section 29 is reproduced as under:-

**29. Termination of Service Due to Abolition of Posts etc.**

1. If an employee at any time after confirmation intends to resign, he/she shall give three months' notice in writing or three months' salary including all allowances to the Managing Committee.
2. The Managing Committee shall also be competent to terminate the services of a confirmed employee only in case of abolition of a post due to closing down of school a class or reduction in the number of sections of a class or discontinuance of a teaching subject by giving three months notice in writing or three months salary including all allowances.
3. The Managing Committee shall have the power to relax the period of notice or payment of salary in special circumstances.

The above said provision makes it clear that the Managing Committee can terminate the services of confirmed employee in case of abolition of posts due to closing down of school, a class or reduction in the number of sections of a class or discontinuance of a teaching subject by giving three months' notice in writing or three months' salary including all allowances. In the present case, the Education Tribunal has found that the teachers were relieved after serving almost 20 years in the school on the

ground that there was decrease in the number of students. Further finding has been given that there was no decrease of number of students. Moreover, after 2013, the school had engaged more employees/teachers. Hence, even in view of Section 29, Chapter 7 of Central Board of Secondary Education Affiliation Bye-laws, services of the teachers could not be terminated as there was no reduction in the number of students or abolition of posts. Hence, the present petitions deserve to be dismissed as earlier decision given by this Court has attained finality and the teachers, who have been terminated along with respondent No.2, have been reinstated.

Resultantly, finding no merits, present petitions i.e. CWP No.1664 of 2019 and CWP No.2026 of 2019 are dismissed.

(RITU BAHRI)  
JUDGE

24.01.2019  
ajp

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