IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

COCP No. 3754 of 2018 (O&M)
Date of Decision: January 27, 2020

Sandeep Dhillon and another

.....PETITIONER

VERSUS

Sudhir Rajpal

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.S.Patwalia, Sr. Advocate with
Mr. Gaurav Rana, Advocate
for the petitioner.

Mr. S.S.Mann, Sr. D.A.G., Haryana.

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SURINDER GUPTA, J.(Oral)

Short reply by way of affidavit of Sudhir Rajpal, Principal Secretary to Government of Haryana, Development and Panchayats Department filed on behalf of the respondent today in the Court is taken on record.

Heard.

Vide order dated 01.06.2018 passed in CWP No.15026 of 2018, it was ordered that reversion orders qua petitioners shall remain stayed till further orders and further promotions be not made to the post of Executive Engineer till the next date of hearing.

Learned counsel for the petitioners submits that further promotions were ordered on 15.11.2018 in violation of order dated 01.06.2018.

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Learned State counsel has drawn my attention to the order dated 17.10.2019 whereby order dated 01.06.2018 was modified and the department was allowed to carry on the promotions to the post of Executive Engineer subject to the outcome of writ petition. In this order, it was specifically clarified that there shall be no impediment for respondent to carry on the way of promotions.

Admittedly, the order dated 01.06.2018 was till next date of hearing, which was 07.08.2018 and was not extended thereafter.

Learned counsel for the petitioners submits that even if the order is not extended, it shall be deemed as extended and remains effective till it is recalled, vacated or modified. In support of his contention, he has relied upon the observations in the cases of ***Vishnu Dutt Sharma and etc. Vs. Regional Joint Director of Education, Agra and etc. 2001 AIR (Allahabad) 165*** and ***Anil Chitoda Versus State of Rajasthan and others, 2009 (30) R.C.R. (Civil) 25***.

Admittedly, there was specific term in the order dated 01.06.2018 that further promotion to the post of Executive Engineer be not made till next date of hearing. It is not the case of the petitioner that before next date of hearing i.e. 07.08.2018 any promotion has been made. The order of promotion dated 15.11.2018 is after the next date of hearing. The authorities while passing order dated 15.11.2018 might be under the impression that order dated 01.06.2018 directing them not to make any promotion to the post of Executive Engineer is only till 07.08.2018. Though, the Hon'ble Allahabad High Court was interpreting Allahabad High Court Rules, 1952, Chapter V, Rule13 has interpreted that stay order

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does not cease to be effective and continues to operate unless recalled, vacated or modified, but this interpretation cannot be made applicable in the present case where proceedings under the contempt of Court have been sought against the respondent. The respondent had interpreted the order in a manner, it was passed and when the interim order was not extended, they proceeded to pass promotion order and later on also got clarification from the Court. No deliberate violation of order dated 01.06.2018 by respondents is made out.

Keeping in view the above facts and circumstances, I find no reason to initiate the proceedings against the respondent in this petition which has no merits. Dismissed.

Rule discharged.

(SURINDER GUPTA)
JUDGE

January 27, 2020
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Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***

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