

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

**LPA No.398 of 2020 (O&M)
IN CWP-8005-2020
Date of Decision:02.07.2020**

Sukh Sagar Avenue Welfare Association through its Chairman

...Appellant

Versus

Punjab Education Development Board through its Member Secretary and
others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr.Keshav Pratap Singh, Advocate for the appellant.

SANT PARKASH, J. (ORAL)

Heard through video conferencing.

CM-1006-LPA-2020

Application is allowed, as prayed for. Exemption sought is
granted.

Main case

Instant intra-court appeal under clause X of the Letters Patent is
directed against the order dated 19.06.2020 passed by the learned Single
Judge.

While noticing the facts of the case, the learned Single Judge
issued notice of motion vide order dated 12.06.2020 (A-1), which reads as

under:-

“The petitioner has approached this Court challenging order dated 4.6.2020 (Annexure P-12) vide which the Director General School Education-cum-Member Secretary, Punjab Education Development Board has cancelled the agreement which had been entered into between the petitioner and Punjab Education Development Board.

The learned counsel for the petitioner has submitted that the petitioner-association had entered into an agreement with Punjab Education Development Board under Public-Partnership Scheme in the year 2016 and was allotted Adarsh Schools at Villages Ransih Kalan (Moga), Miduman (Faridkot) and Pucca (Faridkot) on lease for 99 years for the purpose of managing the same. However, subsequently a show cause notice was issued to the petitioner in the year 2018 alleging therein that the petitioner association was not paying salary to its teachers while the same was being claimed from Punjab Education Development Board.

The learned counsel for the petitioner has submitted that pursuant to said show-cause notice, inquiry was initiated and Sh. Surjit Singh Dhillon, I.A.S. (Retd.) was appointed as an inquiry officer but towards the fag end of the inquiry proceedings he was replaced by Sh. B.C. Gupta, Additional District & Sessions Judge (Retd.) and an inquiry report dated 12.5.2020 was hurriedly submitted and on the basis of the said inquiry report the impugned order has been passed although the said inquiry report was never communicated to the petitioner.

The learned counsel in order to hammer forth his aforesaid contention placed reliance upon 1994 AIR (SC) 1074 titled Managing Director, ECIL, Hyderabad Versus B. Karunakar to contend that the principles of natural justice demand that the inquiry report be furnished to such person against whom any adverse action is required to be taken.

Notice of motion for 10.8.2020.

At this stage, Mr. Navdeep Chhabra, DAG, Punjab accepts notice on behalf of the respondent-State.

Meanwhile, status quo as regards the management of schools be maintained.

After passing of the above-said status quo order, the appellant-writ petitioner filed Civil Misc. No.5423 of 2020 in the writ petition praying for stay of the operation of order dated 04.06.2020 (P-12), alleging that the respondents were time and again attempting to take forcible possession of management of the schools and harassing the appellant-association, despite the specific order for maintaining status quo. The said Civil Misc. application came up for hearing before the learned Single Judge on 19.06.2020 and the following order has been passed:-

“Notice of the application.

Mr. Nishant Maini, Advocate, accepts notice on behalf of respondent No.1 and 2. Service of notice on respondent No.3 is not necessary as he was only an Enquiry Officer.

List on 10.08.2020, the date already fixed in the main case.

Reply, if any, be filed before the next date of hearing.”

Aggrieved therefrom, the appellant-writ petitioner preferred the present intra-court appeal.

Initiating his arguments, learned counsel for the appellant vehemently argued that passing of the impugned order dated 19.06.2020 has resulted into miscarriage of justice. Further, elaborating his arguments, he submitted that the learned Single Judge ought to have granted the injunction restraining the respondents from taking management of the schools and simplicitor adjournment of the same would amount to an irreparable loss, which cannot be compensated in terms of money. He further submitted that

despite the status quo order at the motion stage, the respondents were hell-bent upon to take the management of the schools and order of status quo would become meaningless on account of disobedience by the respondents.

This Court has heard learned counsel for the appellant at length and gone through the case file carefully.

Admittedly, the appellant-writ petitioner filed the writ petition challenging order dated 04.06.2020 (P-12) vide which the Director General School Education-cum-Member Secretary, Punjab Education Development Board has cancelled the agreement which had been entered into between the petitioner and Punjab Education Development Board. While issuing notice of motion, the learned Single Judge vide order dated 12.06.2020 (A-1) ordered for maintaining the status quo regarding the management of the schools. The grudge of the appellant-association is that despite a specific order of status quo regarding the management of the schools as prevalent on 12.06.2020 (A-1), the respondents are violating the said order and the learned Single Judge should have granted the clear cut injunction.

This submission of learned counsel for the appellant is totally misconceived. From the plain reading of the present Letters Patent Appeal and the submissions made before us, one thing is crystal clear that the main grievance of the appellant-association is with regard to disobedience of the order of the status quo passed on 12.06.2020 (A-1). In this context, we are of the considered opinion that if there is any violation of the order of status quo, the remedy is not filing of the present Letters Patent Appeal but the same lies somewhere else. The appellant, if so advised, would have gone for the contempt of court or should have moved the application before the

learned Single Judge for enforcement of the order of status quo. While passing the impugned order on 19.06.2020, the learned Single Judge has neither allowed nor disallowed the application and merely issued notice of the application for being heard with the main writ petition on 10.08.2020.

The other remedy with the appellant-association was to move another application before the learned Single Judge for preponement and hearing of the application on an earlier date keeping in view the urgency involved therein.

The right of filing appeal before this Court would arise only when some order has been passed by the learned Single Judge. The maintainability of Letters Patent Appeal would depend upon the pleadings in the writ petition, the nature and character of the order passed by the learned Single Judge, the type of directions issued regard being had to the jurisdictional perspectives in the constitutional context. Since no adverse order has been passed by the learned Single Judge, the appellant is precluded from challenging the same by way of present Letters Patent Appeal. In this regard, reliance can be placed on the judgment of the Hon'ble Supreme Court in *Jogendrasinhji Vijaysinghji Vs State of Gujarat and others, 2015 (9) SCC 1*.

In view of the discussions made above, the present appeal is not maintainable and is hereby dismissed being devoid of any merit.

(JASWANT SINGH)
JUDGE
02.07.2020
mks

(SANT PARKASH)
JUDGE

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