

CWP No. 11376-2020

Date of Decision: 03.09.2020

Sangeeta

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sanjiv Gupta, Advocate, for the petitioner.

Mr. R.K.S. Brar, Addl. A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, filed under the provisions of Articles 226/227 of the Constitution, the petitioner seeks issuance of a writ in the nature of '*certiorari*', quashing the impugned order dated 29.05.2020 (Annexure P8), the notice dated 10.06.2020 (Annexure P10), the order dated 22.06.2020 (Annexure P15) and the letter dated 23.06.2020 (Annexure P16), on the contention that they are illegal; with a further prayer made for staying the operation of Annexures P-8, P-10, P-15 and P-16, or in the alternative, that further recovery from the petitioner may be stayed and directions may be issued that the petitioner may be allowed to continue to work as Guest Faculty PGT (Hindi), in the Government Senior Secondary School for Boys, Rania.

Pursuant to the order of this court dated 07.08.2020, an affidavit of Sh. J. Ganesan, Director Secondary Education, Haryana, has been filed, annexing therewith an order passed by him on 26.08.2020, revoking the impugned order dated 22.06.2020, with immediate effect.

Along with the affidavit, a copy of the Haryana Guest Teachers Service Act, 2019, has also been annexed, with Mr. Brar submitting that in fact the respondent Principal was not at all competent to remove the petitioner from service and as per Section 6 read with Section 2 (i) (a) of the said Act, a guest teacher can only be removed by the appropriate authority, which in the case of the petitioner is the Government.

Mr. Gupta learned counsel for the petitioner submits that the other orders impugned in this petition, by which the respondent-Principal has made disparaging remarks against the petitioner, however, have not been set aside and that in fact even yesterday, upon a team from the office of the Director Secondary Education having visited the institute where the petitioner teaches, the petitioner was subjected to harassment for three hours again, at the hands of the respondent-Principal.

He submits that the petitioner is willing to file an affidavit to that effect.

However, learned State counsel submits that since there are allegations against the petitioner, they naturally have to be enquired into, with him further submitting that in fact because of the allegations against the Principal and because he issued orders beyond his jurisdiction, disciplinary proceedings have been ordered to be initiated against him, with the District Education Officer, Sirsa, appointed as the enquiry officer.

However, so far at least, no show cause notice is stated to have been issued to the petitioner, qua any kind of misdemeanor etc. on her part.

Consequently, while disposing of this petition, it is directed that the petitioner shall not be harassed in any manner by the respondent Principal or any other person, though of course disciplinary proceedings as per law may

be initiated against her, if the competent authority is of the opinion that they need to be initiated.

Naturally, such disciplinary proceedings shall be ordered only by the competent authority and if the petitioner is subjected to any harassment other than by way of proper disciplinary proceedings initiated by the competent authority, she would be at liberty to bring that to the notice of this court by filing an appropriate application in this petition itself, though it has been otherwise disposed of today.

As regards remarks against the petitioner by the respondent in the orders dated 29.05.2020 and 23.06.2020, (Annexures P-8 and P-16 herewith), the Director Secondary Education would go into that issue also and see as to whether those remarks at the hands of the Principal, could have been passed at all or not, and if not, appropriate proceedings against the respondent-Principal shall be initiated on that account also.

However, it is made also equally clear that this court has not made any comment whatsoever on whether or not the petitioner is guilty or not guilty of the commission of any offence, or of any indiscipline etc., which would again be a matter gone into by the competent authority and action taken accordingly.

In view of the fact that the impugned order by which the petitioner was removed from service has been found by the Director also to be completely without jurisdiction, naturally she shall be treated to be in service ever since the day the impugned order removing her from service was passed and her salary and other benefits shall be released, accordingly, within two weeks from today.

September 03, 2020

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.