

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

Letters Patent Appeal No.669 of 2020 (O&M)

Date of Decision: 06.10.2020

Virpal Kaur d/o Sh. Baldev Singh

.....Appellant

versus

Shiromani Gurudwara Parbandhak Committee and othersRespondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Ms. Vanita Sapra Kataria, Advocate
for the appellant.

ARUN PALLI, J.

This is an intra-court appeal under Clause X of the Letters Patent against the judgment and order dated 05.08.2020 rendered by the learned Single Judge, vide which the writ petition preferred by respondents No.1 to 3 (petitioners) has been allowed and ad-interim order dated 12.12.2019 passed by the Educational Tribunal, Punjab (respondent No.4), whereby transfer of the appellant was stayed, has since been set aside.

A brief narration of facts that have led the parties to the current stage shall be expedient and necessary.

The appellant is employed as English Teacher with respondents No.1 to 3 since 2008. Vide order dated 11.11.2019 (Annexure P-2) she was transferred from Guru Gobind Singh Public School, Malluka, District Bhatinda to Bhai Bahelo Public School Fafre Bhaike, District Mansa. Aggrieved by her transfer, the appellant filed a petition under section 8 of the Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979 (hereinafter referred to as the '1979 Act') before the Educational Tribunal, Punjab (for short 'the Tribunal').

And upon consideration of the matter, the Tribunal vide an interim order dated 12.12.2019 stayed the operation of transfer order. An application was moved by respondents No.1 to 3 seeking vacation of stay and on 08.01.2020 the Tribunal issued notice to the appellant for 10.02.2020. However, respondents No.1 to 3 also approached this Court and vide Civil Writ Petition No. 3803 of 2020, assailed the stay order dated 12.12.2019. Now while on one hand, the petition filed by respondents No.1 to 3 was pending before the learned Single Judge, whereas on the other, the Tribunal on 10.02.2020 adjourned the matter to 03.04.2020 and extended the stay order till the next date. On 20.07.2020 when the petition came up before the learned Single Judge, learned counsel for respondents No.1 to 3 prayed for and was granted time to make a suitable prayer before the Tribunal for disposal of the petition. Particularly, for pursuant to his appointment, the Chairman of the Tribunal had since joined. Accordingly on 20.07.2020, the Tribunal posted the petition for arguments on 04.08.2020. But, as the Chairman and also the member of the Tribunal were on leave, the matter was adjourned to 18.10.2020. But on 05.08.2020, the learned Single Judge considering that even though the Presiding Officer of the Tribunal had joined, but owing to the prevalent pandemic (Covid-19) even the lawyers did not have a physical access to the premises and said situation was likely to continue for a long time, as prayed for, the matter was heard and vide impugned judgment dated 05.08.2020 allowed the writ petition and the order of interim stay of transfer passed by the Tribunal was set aside. Thus, this appeal.

Learned counsel for the appellant submits that very premise of the order dated 05.08.2020, and because of which, the learned Single Judge proceeded to hear and decide the matter: owing to the prevalent pandemic,

the Tribunal was dis-functional and even the lawyers did not have a physical access to the premises and the situation was likely to continue indefinitely, is factually wrong. The learned Single Judge was misinformed by the respondents. Further, it is urged that a bare analysis of the judgment reveals that the learned Single Judge has conclusively decided the issue and held that transfer of the appellant was caused owing to administrative exigencies and was not based on any *mala fide* consideration. Thus, the impugned judgment has completely prejudiced the case of the appellant, for there is nothing left to be decided by the Tribunal.

As opposed to this, learned counsel for respondents No.1 to 3 submits that as regards the observations/conclusions recorded by the learned Single Judge, those are relevant only for the purposes of interim relief and examining the validity of ad-interim stay order dated 12.12.2019, granted by the Tribunal. He submits that as the main petition is still pending, it would rather be expedient if the Tribunal is directed to decide the matter finally without being influenced by the impugned judgment.

We have heard learned counsel for the parties and perused the records.

We are informed that the Tribunal is fully functional and the matters are being heard through video conferencing. The main petition under Section 8 of the 1979 Act, filed by the appellant is listed for arguments on 13.10.2020. We may point out that albeit the appellant has assailed the impugned judgment on multiple grounds but considering that petition filed by her is pending consideration, rather than interfering in the impugned order passed by the learned Single Bench and hearing the parties on-merits in this appeal which arises out of an interim order, we consider it expedient to request the Tribunal to decide the matter on the date already fixed. The

reason being: the stay order dated 12.12.2019 granted by the Tribunal in favour of the appellant has since been set aside, and for we have not heard the parties on-merits, no interim protection is being granted to the appellant either. Thus, in the given situation and to secure the rights and interests of the appellant, her petition under Section 8 of 1979 Act is required to be decided without any further delay. But, if for any reason, it is unviable for the Tribunal to decide the matter on 13.10.2020, we are sanguine that every possible endeavour shall be made to dispose of the same at the earliest.

In so far as, the observations/findings/conclusions recorded by the learned Single Judge, suffice it to say, those are germane and had a limited significance: for the purpose of interim relief and in context of the ad-interim stay order dated 12.12.2019, passed by the Tribunal. None of the observations made therein shall be treated to be a finding on the merits of the case. Needless to assert, for the matter is at large before the Tribunal, while deciding the matter, every possible aspect that shall be canvassed by the parties shall be factored in and appropriate orders in accordance with law shall be passed without feeling bound or influenced by any observation made by the learned Single Judge.

The appeal is accordingly disposed of in the above terms.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

06.10.2020
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Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√