

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

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LPA No. 524 of 2021 (O&M)

Rajni Bansal and another

... Appellants

Versus

Guru Nanak Education Trust and others

... Respondents

(2)

LPA No. 526 of 2021 (O&M)

Dr. Aarti Nayar and another

... Appellants

Versus

Guru Nanak Education Trust and others

... Respondents

(3)

LPA No. 554 of 2021 (O&M)

Guru Nanak Education Trust

... Appellants

Versus

Aarti Nayar and others

... Respondents

(4)

LPA No. 555 of 2021 (O&M)

Guru Nanak Education Trust

... Appellants

Versus

Rajni Bansal and others

... Respondent

Decided on : 23.11.2021

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present: Mr. Samarth Sagar, Advocate for the appellants
in LPA No.524 and 526 of 2021 and
for respondents No.1 & 2 in LPA Nos.554 and 555 of 2021.

Mr. K.S. Dadwal, Advocate for the appellant
in LPA Nos.554 and 555 of 2021 and for respondent No.1
in LPA Nos.524 and 526 of 2021.

Mr. Subhash Ahuja, Advocate
for the respondent-Panjab University.

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of 4 appeals i.e. LPA Nos.524, 526, 554 and 555 of 2021. The facts are being taken from **LPA No.524 of 2021 'Rajni Bansal and another Vs. Guru Nanak Education Trust and others'**.

2. Challenge in the present bunch of appeals by the four employees and the management is to the order of the learned Single Judge dated 11.05.2021, whereby the learned Single Judge has remanded the dispute to the Educational Tribunal, Punjab, Chandigarh, keeping in view the provisions of Section 7-A of the Punjab Affiliated Colleges (Security of Service of Employees), Act, 1974 read with Section 8 to hold that the jurisdiction of the writ Court is specifically barred. Resultantly, the writ petitioners are in appeal aggrieved against this fact.

3. The Education Trust is in appeal on the ground that the employees have been allowed to carry on with their job on account of remand being made and the extension of the interim orders has been granted till the decision by the Tribunal.

4. Keeping in view the fact that there is an alternative statutory remedy as such, the order of remand would not be interfered with by this

Court in normal circumstances. Certain facts, however, were brought to the notice of the learned Single Judge, which have not been dealt with that the connected matters are pending before this Court and, therefore, relegation to the alternative remedy would not be appreciated in the facts and circumstances of the case. Therefore, this Court is of the opinion that the order directing remand was not justified in the facts and circumstances. Reliance can be placed upon the judgment of the Apex Court in '**M.P. State Agro Industries Development Corporation Ltd. and another Vs. Jahan Khan**', (2007) 10 SCC 88. Relevant paragraph of the said judgment reads as under:-

“12. Before parting with the case, we may also deal with the submission of learned counsel for the appellants that a remedy by way of an appeal being available to the respondent, the High Court ought not to have entertained his petition filed under Articles 226/227 of the Constitution. There is no gainsaying that in a given case, the High Court may not entertain a writ petition under Article 226 of the Constitution on the ground of availability of an alternative remedy, but the said rule cannot be said to be of universal application. The rule of exclusion of writ jurisdiction due to availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of the availability of an alternative remedy, a writ court may still exercise its discretionary jurisdiction of judicial review, in at least three contingencies, namely, (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. In these circumstances, an alternative remedy does not operate as a

bar. (See: Whirpool Corporation Vs. Registrar of Trade Marks , Harbanslal Sahnia & Anr. Vs. Indian Oil Corporation Ltd. & Ors. , State of H.P. Vs. Gujarat Ambuja Cement Ltd. and Sanjana M. Wig Vs. Hindustan Petroleum Corporation Ltd.).”

5. Challenge before the writ Court by the employees was to the issuance of charge-sheet dated 24.01.2020 (Annexure P-13) and 03.02.2020 (Annexure P-15) by the Management of the College. Resultantly, the inquiry reports dated 10.06.2020 (Annexure P-24) and 13.06.2020 (Annexure P-25) conducted by respondent No.5, the inquiry officer were also subject matter of challenge alongwith the proposal of punishment of termination of service dated 19.06.2020 and 20.06.2020 (Annexures P-26 & P-27). A writ of mandamus had also been sought by the employees directing the management as such to comply with the order dated 20.11.2019 (Annexure P-10) by the respondent No.4-University.

6. By virtue of the said order dated 20.11.2019 passed by the University, the suspension order of the six employees had been revoked by the University under the provisions of Regulation 9.2 of Panjab University Calender Vol.1 2007 in exercise of the said statutory powers.

7. It is not disputed that the educational institution/appellant herein as such had challenged the order dated 20.11.2019 prior in point of time by filing **CWP No.34680 of 2019 'Guru Nanak Girls College, Model Town, Ludhiana Vs. Panjab University and others'** before this Court and the employees as such are also party in the said petition, which is now stated to be pending for 22.04.2022. All six employees had also

filed CWP No.2928 of 2020 '**Sonu Munjal and otheres Vs. Guru Nanak Girls College (AIDED) and others**', in which challenge had been made to the suspension order dated 14.09.2019 and 05.10.2019 and for directions as such to comply with the order of the Registrar of the University dated 20.11.2019. It is also not disputed that the writ petition filed by the employees i.e. CWP No.2928 of 2020 has also been ordered to be heard alongwith CWP No.34680 of 2019 by a learned Single Judge on 03.03.2020.

8. Thus, it is apparent that the dispute as such regarding the suspension order which was initially passed, is already subject matter of consideration before this Court at the hands of the educational institution. It would have a bearing as such upon the subsequent proceedings which led to issuance of the charge-sheet and the inquiry report and the subsequent proposal to dismiss the employees and by the impugned order parallel proceedings would continue.

9. By remanding the matter to the Tribunal, the learned Single Judge has failed to take into consideration the fact that conflicting decision could come forth and that the bar of alternative remedy is not an absolute bar. Therefore, this Court is of the opinion that in the present facts and circumstances, it would have been prudent to keep the matter tagged alongwith CWP No.34680 of 2019, as it was arising out of the earlier litigation, challenging the suspension orders inter se the parties, which matter is still pending before this Court.

10. Mr. Dadwal, earnestly submits that proceedings by two of

the employees namely Sonu Munjal and Praneet Kaur who had preferred writ petition bearing CWP No.10458 of 2020 have been remanded on 25.08.2020 by another Single Judge. Mr. Sagar, is well justified in holding out that if those employees as such have not agitated for their grievances, it would not be binding upon the other 4 employees (appellants) and their legal rights as such cannot be curtailed on account of remand order passed to which they were not a party. It is further pointed out that these facts were not brought to the notice of learned Single Judge, who had passed the remand order in the other case.

11. Resultantly, this Court is of the opinion that the order of remand in the present facts and circumstances is not justified. Therefore, the order of the learned Single Judge dated 11.05.2021 is set aside. CWP Nos.9907 and 9928 of 2020 are restored to their original number alongwith the interim orders passed in favour of the employees. The said writ petitions be heard alongwith CWP No.34680 of 2019, which is now stated to be pending on 22.04.2022.

12. The appeals are disposed of, accordingly.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

November 23, 2021
Naveen

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No