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

1)

CWP-9907-2020 (O&M)
Date of decision: 11.05.2021

Rajni Bansal and anotherPetitioners

versus

Guru Nanak Education Trust and othersRespondents

2)

CWP-9928-2020 (O&M)

Aarti Nayar and anotherPetitioners

versus

Guru Nanak Education Trust and othersRespondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Samarth Sagar, Advocate
for the petitioners.

Mr. K.S. Dadwal, Advocate
for respondents No.1 to 3.

Mr. Subhash Ahuja, Advocate
for respondent No.4.

FATEH DEEP SINGH, J.

Due to outbreak of pandemic COVID-19, the instant case
is being taken up for hearing through video conferencing.

The above two detailed Civil Writ petitions, though by two

different sets of petitioners, the first one by petitioner-Rajni Bansal and Neeru Gulati and the second by Dr. Aarti Nayar and Dr. Inderpreet Kaur, both under Articles 226/227 of the Constitution of India are seeking writ in the nature of *certiorari* for quashing of the chargesheets and inquiry reports made by the respondents and on account of similar facts and law points involved and for the sake of brevity, are being disposed off together by this common judgment.

The petitioners, in both these petitions are employed with respondent No.1-Guru Nanak Education Trust, Model Town, Ludhiana in their college respondent No.3-Guru Nanak Girls College, Model Town, Ludhiana (an Affiliated College), as Teachers/Lecturers in different subjects and which are aided posts and are covered under the Punjab Affiliated Colleges (Security of Service of Employees), Act 1974 (in short "the Act"). It is during the course of their employment, when the college teachers raised their voice against the college authorities for "equal pay for equal work", College authorities is alleged to have instituted administrative action to throw out the petitioners as well as to overawe remaining teachers and, thus, to intimidate and force them not to raise their demands. As a sequel to this, the petitioners were issued chargesheets on different dates followed by show cause notices purposing punishment of their termination of service.

It is the case of the petitioners that as blatant misuse of their authority and powers, the college authorities have set up

inquiry officer to hold departmental inquiry against the petitioners, who, on insufficient material and unjustified grounds, has recommended action against the petitioners and, thereby, terminating them of their services.

The unison stand of respondents No.1 to 3 is primarily based on the statutory provisions that under Section 7A of the Act, Educational Tribunal has the jurisdiction to decide and adjudicate the dispute between the petitioners and the college management and the Civil Court has no role to play in the same. The respondents No.1 to 3 have alleged that on account of illegal and unjustified demands of the petitioners and their acts of misconduct, the college authorities were forced to take administrative actions, as per law and, thus, denied the averments made in the petition. Respondent No.4-Panjab University, Chandigarh, has taken up similar plea of lack of jurisdiction of the Civil Court in view of the statutory provisions. It is reiterated that the college management can suspend an employee in case of gross misconduct/moral turpitude. It is reiterated that the order of suspension *qua* the petitioners, passed by the college management had been stayed vide order dated 20.11.2019 of the Registrar of Panjab University in terms of University Calendar Volume I Regulation 9.2 Chapter VIII (E). The respondent No.4 shrugs off its responsibility *qua* the *inter se* dispute between the Teachers and the management claiming that all the reliefs are being sought by the petitioners against the college management and in

which the University has no role to play and, thus, denied the averments of the petition.

Heard counsel for the parties and perused the records.

Mr. Samarth Sagar, Advocate for the petitioners has placed reliance upon judgments passed in CWP No.10458 of 2020 titled as 'Sonu Munjal versus Director Public Instruction (Colleges) Punjab and others', Civil Appeal No.5145 of 2006 titled as 'Union of India and another versus Kunisetty Satyanarayana' (2006) 12 SCC 28, Civil Appeal Nos.4041-42 of 2007 titled as 'MP State Agro Industries Development Corporation Limited and Another versus Jahan Khan' (2007) 10 SCC 88', Criminal Appeal No.35 of 2004 titled as 'Special Director and another versus Mohd. Ghulam Ghouse and another' (2004) 3 SCC 440, and CWP No.11022 of 2010 titled as 'Dr. Balvir Chand Josan versus Chandigarh Administration U.T. Chandigarh and others' to hammer home the point that in exceptional circumstances, the Civil Court can interfere in the interest of justice claiming that the Statute has to be construed in accordance with the intention of those who make it and it is the duty of the Court to act upon intention of the Legislature. It is asserted that the true intent of Legislature was to provide the employees of the aided institution a platform to raise their grievance and it was never the intent of the Statute to provide a forum of Educational Tribunal. The same is controverted by Mr. K.S. Dadwal, Advocate for respondents No.1 to 3 by citing judgments passed in CR No.4315 of 2012 titled as 'Management of SD Model

Senior Secondary School and another versus District Judge-cum-Service Tribunal and another' 2014 (1) SCT 652, CWP No.25942 of 2012 titled as 'Suresh Sharma versus State of Punjab and anothers', CWP No.10458 of 2020 titled as 'Sonu Munjal versus Director Public Instruction (Colleges) Punjab and others', CWP No.12000 of 2020 titled as 'Praneet Jawanda versus Director Public Instruction (Colleges) Punjab and others', Criminal Appeal No.35 of 2004 titled as 'The Special Director and another versus Mohd. Ghulam Ghouse and another' (2004) 1 SCT 671, Civil Appeal No.2206 of 2013 titled as 'State of Orissa and others versus M/s MESCO Steels Limited and another' 2013 (2) RCR Civil 318 and CWP No.6747 of 2012 titled as 'Urmila Sorout versus State of Haryana and others' 2013 (1) SCT 598 and by Mr. Subhash Ahuja, Advocate for respondent No.4 by citing judgments passed in CWP No.10458 of 2020 titled as 'Sonu Munjal versus Director Public Instruction (Colleges) Punjab and others', to bring about the fact that repeatedly, this Court had held that all service disputes arising out of an order by the management, the Tribunal has the jurisdiction.

Appreciating the arguments of the two sides and without feeling the necessity to further advert on to the merits of the case of the two sides, lest it might prejudice their respective case, it needs to be reiterated here that the Act was enacted to provide Security of Service to the Employees of affiliated colleges. Affiliated college, as per definition assigned in Section 2 (a) of the Act is defined as

follows:-

(a) “affiliated college” means a college associated with and admitted to the privileges of University constituted or established under any law for the time being in force but does not include a Government college or college established or maintained by such a University.’

and further Section 2 (aa) defines what is aided post which is given as below:-

[(aa) “aided post” means an aided post on the establishment of an affiliated college against which such a college gets grant-in-aid from the State Government from time to time.’

and, therefore, illustrates that it is something, for which, a college gets grant-in-aide from the State Government from time to time. Furthermore, Section 7A enlists the ambit of Educational Tribunal and under which, the Educational Tribunal, by way of Section 7A sub-Section (12) provides that the Educational Tribunal shall have jurisdiction to hear all cases of dispute between the “Managing Committees” and the “employee” as defined in this Act and the Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979. Furthermore, under Section 8, jurisdiction of Civil Courts has been specifically barred.

Reverting back to the instant case, it is an outcome of disciplinary proceedings between the employees and the management of the college, the instant petitions have come about and, therefore, by virtue of Section 7A sub-Section (12) read with Section 8 of the Act, jurisdiction of this Court is specifically barred. Similar views had earlier been expressed by this Court in various judgments which has been detailed above on behalf of the respondents. Though, the petitions were filed long back ago and have been continuing since long, after stay orders dated 16.07.2020 were passed by this Court in both the petitions at the initial hearing and by virtue of which, the petitioners have since then, continued in their jobs and so, was by virtue of letter issued by the Registrar, Panjab University, Chandigarh, under provisions enshrined in University Calendar Volume I Regulation 9.2 Chapter VIII (E). Thus, the petitioners having continued on these jobs for such a long time, it would be in the fitness of things and interest of justice that they be allowed to carry on with their jobs as such, and the matter be relegated to the Educational Tribunal, Punjab, Chandigarh, which shall hear and dispose of these petitions, as per law. Since, the pleadings are complete; this Court deems it expedient that files of these petitions be accordingly sent to the Educational Tribunal, in a sealed cover, after retaining one set of the pleadings for future reference of this Court.

Both the matters, as such, stand disposed off.

11.05.2021

Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No