

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

CWP No.12467 of 2020
Date of decision: 17.02.2021

Bhura Ram

...Petitioner

Versus

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Johan Kumar, Advocate for the petitioner.

Ms. Mamta Singla, DAG, Haryana.

ANIL KSHETARPAL, J.

Through this writ petition filed under Article 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari for quashing/setting aside the order dated 20.01.2020, dismissing the petitioner from service of the Mewat Model School, Nagina.

At the outset, it must be noticed that this Court is of the considered view that the petitioner is required to be relegated to the remedy of appeal under Rule 111 of the Haryana School Education Rules, 2003. It is the pleaded case of the petitioner that the school is a aided school. The Government of Haryana has enacted the Haryana School Education Act, 1995 which apart from other things provide for grant of aid to the aided schools. In exercise of the powers conferred by sub section 1 read with sub section 2 of Section 24 of the Haryana

School Education Act, 1995, the Governor of Haryana has notified the rules namely the Haryana School Education Rules, 2003. Rule 111 is extracted as under:-

- (a) After receipt of the decision of the disciplinary authority the employee concerned may present his appeal against the order of the disciplinary authority to the District Education Officer/ District Primary Education Officer within 30 days of the receipt of the order.
- (b) After going through the facts and other relevant records relating to the case and hearing both the parties in person, the District Education Officer/ District Primary Education Officer shall convey the decision to the managing committee within 60 days from the date of receipt of the such appeal.
- (c) The decision shall be binding for both the parties, however, the aggrieved party may appeal to the Director within 30 days from the date of receipt of the decision.
- (d) On receipt of the appeal from the aggrieved party i.e. disciplinary authority/ employee, Director may require the disciplinary authority to furnish relevant record of the case.
- (e) After examining the record and giving hearing to the parties if requested, the Director shall decide the appeal by upheld or remand or reduce/ enhance penalty.
- (f) The decision of the Director shall be final and binding for both the parties:

Provided in the case of minority aided schools the above provisions regarding appeal shall be voluntary for the said school whose managing committee may either adopt this provision of appeal or may devise their own method and remedy for appeal, failing which the aggrieved party will have its remedy under the court of law.

- (g) The appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. Where an appeal is preferred under clause (a) and (d), the first/ second appellate authority, as the case may be, may stay the enforcement of the relevant order for such period and on such conditions, as it deems fit.
- (h) The Director may himself or on an application made by the aggrieved party review its own decision, if he considers that some points of facts were left from his view or ignorance of any material fact or any error apparent on the face of the record and pass fresh order as he deems fit.

Thus, it is apparent that the appeal is maintainable against the order imposing penalty by the management on its employee. In the present case, the petitioner has been ordered to be dismissed from service after holding a regular inquiry. Thus, the appeal is maintainable.

In view thereof, since the petitioner has an effective alternative remedy of appeal, this Court does not find it appropriate to entertain this writ petition in exercise of its extra ordinary jurisdiction.

Disposed of.

17.02.2021
ashok

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No