

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

CWP-13514-2019(O&M)

Date of Decision: 31.03.2021

**Guru Nanak National College For Women, Nakodar
Jalandhar**

..... Petitioner

versus

Education Tribunal, Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Animesh Sharma, Advocate for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Mr. Sameer Sachdeva, Advocate for respondent No.3.

Mr. M.S. Virk, Advocate for respondent No.4.

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Pleadings on record would indicate that a proposal dated 09.11.2016 was forwarded by the Managing Committee for removal of the services of Dr. Sukhwinder Kaur, Principal (respondent No.3 herein) and vide order dated 29.04.2019 (Annexure P-8) passed by the Director, Public Instructions (Colleges), Punjab, the proposal was approved.

Instant writ petition has been filed by the petitioner-College assailing the order dated 09.05.2019 (Annexure P-12) passed by the Educational Tribunal, State of Punjab in an appeal that was preferred by

respondent No.3 against the order dated 29.04.2019 passed by the DPI (Colleges) and in terms of which interim directions were passed for respondent No.3 to continue as Principal of the college.

It would be apposite to notice that the primary ground of challenge raised by the petitioner-College was that the impugned order dated 09.05.2019 (Annexure P-12) has been passed at the hands of the sole administrative member and as such suffers from a jurisdictional error being *coram non judice* and in complete violation of the scheme of the Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 as also the Rules framed thereunder.

Petition had come up for preliminary hearing before this Court on 20.05.2019 and while issuing notice of motion, operation of the impugned order dated 09.05.2019 as also further proceedings before the Tribunal had been directed to be stayed.

Thereafter CM No.9608 of 2019 had been filed by the applicant/respondent No.3 herein seeking vacation of the interim order dated 20.05.2019 passed by this Court. Such application was dealt with and dismissed vide a detailed order dated 13.01.2020.

During the course of resumed hearing counsel for the parties have informed this Court that the Educational Tribunal, State of Punjab is fully functional being headed by a judicial member namely Hon'ble Mr.Justice Inderjit Singh (Retd.).

Mr.Sameer Sachdeva, learned counsel representing respondent

No.3 takes a stand that since the Educational Tribunal, Punjab is fully functional as of date, the validity and legality of the order dated 09.05.2019 (Annexure P-12) passed by the sole member of the Educational Tribunal need not be gone into. He states that the *lis* now ought to be decided on merits by the Educational Tribunal. Counsel representing petitioner-College as also State counsel adopt the same line of reasoning.

In view of such consensus having arrived at, matter is remanded back to the Educational Tribunal to consider the appeal preferred by respondent No.3 afresh on merits.

Order dated 09.05.2019 (Annexure P-12) passed by Educational Tribunal is set aside.

The issue as regards an order passed by a sole administrative member lacking jurisdictional authority is, however, kept open.

Writ petition disposed of.

Pending applications, if any, shall also stand disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

31.03. 2021
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No