

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

Civil Writ Petition No.1188 of 2022

Date of Decision: February 02 , 2022.

Ankit Vashisht

..... PETITIONER(s)

Versus

State of Haryana and others

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rishav Jain, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This writ petition has been filed by the petitioner for issuance of a direction to respondents No.2 to 5 to release his salary since March, 2020 alongwith interest with a further direction to respondent No.5 not to interfere in the duty of the petitioner and allow him to mark his attendance in the school attendance register.

It is submitted that the petitioner was appointed as a Computer Teacher at Government Senior Secondary School, Nagina and he joined on

14.11.2014. Thereafter services of the petitioner were continued and extended on year-to-year basis with notional break. It is further submitted that respondent No.5 arbitrarily stopped the salary of the petitioner from March, 2020 onwards for reasons best known to him, started harassing the petitioner and did not allow the petitioner to mark his attendance in the register. Representation was submitted to the District Education Officer, Nuh (Mewat) who after considering the same directed the Principal, respondent No.5, to allow the petitioner to rejoin and report the matter to the office of Block Education Officer. However, there was no compliance thereof. Respondent No.5, it is stated, did not permit the petitioner to mark his attendance and did not release his salary since March, 2020.

Learned counsel for the petitioner submits that under a *bonafide* but incorrect advice Civil Suit dated 03.03.2021 for mandatory injunction was filed which was dismissed on 29.11.2021 on the ground that the civil court has no jurisdiction to entertain the said case. It is contended that the petitioner has been performing his duty and carrying out his responsibilities with there being no complaint or anything adverse against him. It is thus prayed that this writ petition be allowed.

I have heard learned counsel for petitioner and have gone through the file with his assistance.

A perusal of the file reveals that the petitioner has been appointed on contractual basis through an outsourcing agency, which is admittedly not even arrayed as a party in this writ petition. Annexure P1 i.e., the joining report, clearly indicates the same. Appointment of the petitioner through an outsourcing agency has not been denied by learned counsel for the petitioner. When faced with the question of maintainability of this writ petition as there is clearly no privity of

contract between the petitioner and the official respondents, learned counsel for the petitioner has sought to refer to communication dated 02.11.2020 from the Block Education Officer, Nagina to Principal, Government Senior Secondary School, Nagina. However, in my considered opinion the said communication cannot afford a cause of action to the petitioner to file the present writ petition, claiming a right against the official respondents in view of the fact that he was admittedly appointed on contractual basis through an outsourcing agency. Controversy at hand stands conclusively settled now. Reference in this regard can gainfully be made to judgment of a coordinate Bench in **CWP-29655-2018** (Anmol Garg and another v. State of Punjab and others), which has been upheld in **LPA-1910-2018** (Sharanbir Kaur v. State of Punjab and others). The First Division Bench of this Court in **LPA- 1910-2018** upheld the decision of the Single Bench while specifically observing as under:-

“Learned Single Judge finding that the appellant was an employee of outsourcing agency which was having a license under the contract to supply manpower held there was no privity of contract between the appellant and the employer and she was not even a contractual employee. The principle being canvassed before us applies only in case there is a privity of contract between the employee and the employer. In the case in hand, the appellant was an employee of the service provider. The benefit of the said principle is not liable to be extended to her and, thus, we do not find any illegality committed by learned Single Judge in dismissing the writ petition.”

Reference in this regard can also be made gainfully to **CWP-19762-2018** (Vikash v. The State of Haryana and others).

A Division Bench of this Court in **Nishan Singh and others v. State of Punjab and others, 2014 (11) RCR (Civil) 262** has clearly observed that a

service provider is not an agency of the State. The service provider enters into an agreement with the State agency to provide the work force on certain terms and conditions. The candidates are selected by the service provider and supplied to the Government department. Thus, in this scenario it cannot be held that there is any privity of contract between the contractual employees and the State/department.

It is to be noted that the petitioner in this case had admittedly filed a civil suit before the learned Civil Judge (Junior Division), Hodal who has not entertained the same on the ground that the present petitioner was appointed as a Computer Teacher at village Nagina, District Nuh which falls in the jurisdiction of District Nuh, therefore, the application under Order 7 Rule 11 CPC filed by the defendant was allowed.

Keeping in view the definitive pronouncement of the Division Bench of this Court, I do not find any ground for interference in this writ petition.

Accordingly, this writ petition is dismissed with no order as to cost. Needless to say, the petitioner is at liberty to avail the remedy/remedies as is/are available to him for redressal of grievance as raised in the writ petition, in accordance with law.

February 02 , 2022.
'om'

(LISA GILL)
JUDGE

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