

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

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**LPA-323-2021 (O&M)
Decided on : 05.12.2022**

PUNJAB WATER SUPPLY AND SEWERAGE BOARD

....Appellant

Versus

GURDEESH PAL SINGH AND OTHERS

.... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Vijay Kumar Kaushal, Advocate for the appellant.

Mr. D.S.Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate for respondent Nos.1 to 14.

Mr. Rohit Ahuja, DAG, Punjab
for respondent No.15.

G.S. Sandhawalia, J.(Oral)

Present Letters Patent Appeal is directed against the interim orders of the learned Single Judge, wherein initially on 02.11.2020 (Annexure A-1), the advertisement dated 17.07.2020 (Annexure P-7), which was subject matter of challenge was ordered not to be given effect to. Thereafter, the matter was adjourned and the appellant-Corporation was asked to file the reply and the interim order was directed to be continued till 18.12.2020. On the said date, it was noticed that reply was already filed and, accordingly, the matter was adjourned to 03.05.2021 for filing replies to the miscellaneous applications. Thereafter, an application bearing CM-2254-CWP-2021 was filed for preponing of the

main case, on account of the difficulties being faced by the appellant-Corporation. The same only came up on 12.03.2021 and was ordered to be heard on 03.05.2021 with the main case. Resultantly, the present appeal came to be filed.

Thereafter, on 01.04.2021 before the Coordinate Bench of this Court counsel had made a statement on behalf of the writ petitioners/respondent Nos.1 to 14 herein that they have no objection with respect to filling up of one post of Chief Engineer, in pursuance to the said advertisement, since they were only contesting the appointment of Superintendent Engineers in pursuance of the said advertisement on contract basis. It is the case of the writ petitioners/private respondents herein that since they were in-service candidates, therefore, they are being prejudiced by the act of the Corporation.

We are of the considered opinion that it would be appropriate for the appellant-Corporation to file an appropriate application for modification of stay, if so required or argue the main case as pleadings are admittedly complete in the writ petition which is now listed for 12.01.2023. Even otherwise keeping in view the law laid down by the Apex Court in **Midnapore Peoples' Coop. Bank Ltd. And others Vs. Chunilal Nanda and others, (2006) 5 SCC 399** and **Shyam Sel and Power Limited and another Vs. Shyam Steel Industries Limited, 2022 (2) RCR (Civil) 475**, the maintainability of the appeal is also questionable against interim/interlocutory orders. Relevant observations made in the case of **Chunilal Nanda (supra)** read as under:-

“15. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories :

- (i) Orders which finally decide a question or issue in controversy in the main case.
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.
- (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.
- (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.
- (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

The term 'judgment' occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in section 2(9) CPC and orders enumerated in Order 43 Rule 1 of CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, 'judgments' for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not 'judgments' for purpose of filing appeals provided under the Letters Patent.

Faced with this situation, counsel for the appellant-Corporation submits that he be given liberty to contest the writ petition before the learned Single Judge since during the intervening period also and as stated by counsel for the private respondents they have also gained eligibility and, therefore, as per rules and regulations of the Corporation are also entitled for promotion on regular basis. It is further pointed out that DPC has also been held and some of them have been promoted.

Keeping in view the above, the present appeal is disposed off with liberty to press before the learned Single Judge for disposal of the writ petition on merits.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

05.12.2022
Naveen

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No