

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130

CWP-2694-2023

Date of decision: 20.02.2023

POOJA SHARMA

..Petitioner

Versus

STATE OF PUNJAB AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Anju Arora, Advocate
Ms. Jashanpreet, Advocate
Ms. Manpreet, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab

Mr. Anupam Singla, Advocate
for respondent. No.2.

ANIL KSHETARPAL, J(Oral)

On 09.02.2023, the following order was passed:-

“1. The petitioner prays for issuance of a writ in the nature of Mandamus directing respondent no.4 and 7 not to pressurize respondent no.8 and 9 to appoint respondent no.11 or permit him to join as PTI Teacher in Adarsh School, Boha or Adarsh School, Bhupal.

2. It is the case of the petitioner that respondent no.11 used to send obscene messages to her. She avoided to make complaint for some time, however, she was forced by circumstances to lodge an FIR No.76 dated 14.09.2017 against him. Similarly, another lady lodged a similar FIR no.161 of 2022. The respondent no.11 resigned from his job on 14.10.2017 which was accepted. The proceedings initiated at the behest of respondent no.11 are pending before the Education Tribunal. The petitioner complains that the Deputy Commissioner and the District Education Officer is compelling the management of the school to take respondent no.11 back in service, though, there is no order by the Education Tribunal in this regard.

3. In the pre-lunch session, the learned counsel representing the State of Punjab was requested to take instructions.

4. In the post-lunch session, Sh.R.K.Kapoor, Addl. AG, Punjab, after taking instructions from Sh.Harinder Singh, District Education Officer, (SE), Mansa, states

that he is not pressurizing the management to take respondent no.11 back in service.

5. Learned counsel representing the petitioner has produced a vernacular copy of a communication sent by the District Education Officer to the Principal of the Adarsh School, conveying the afore-stated request of the Deputy Commissioner.

6. This school has been set up under the aegis of the Punjab Education Development Board, which is an autonomous body created by the statute. The Government or its officials have no business to interfere in the management of the schools, which have been set up by the Punjab Education Development Board in a public private partnership arrangement. Prima facie, the directions issued by the Deputy Commissioner are beyond his jurisdiction.

7. Notice of motion.

8. At the request of the Court, Mr. R.K.Kapoor, Addl. AG, Punjab, accepts notice on behalf of respondents no.1, 3 to 7 and 10 and prays for some time.

9. Mr. Anupam Singla, Advocate accepts notice on behalf of respondent no.2.

10. Let the Chief Secretary, Punjab, the concerned Deputy Commissioner as well as the concerned District Education Officer file their respective affidavits, explaining the source of such power and jurisdiction of the Deputy Commissioner to issue a communication in this regard.

11. List on 15.02.2023, in the urgent list.

12. In the facts of the case, meanwhile, the District Administration is restrained from interfering in the management of the school in any manner.”

The Chief Secretary, Punjab, has filed an affidavit admitting that the Deputy Commissioner has no power to order reinstatement of respondent No.11. The Court has been informed that the Principal Secretary, Department of School Education, Punjab, has been asked to enquire into the matter and submit a report within a period of three weeks.

Keeping in view the aforesaid facts, the writ petition is disposed of while directing the State of Punjab to place on record the report of such enquiry and consequential action, if any, taken by the Government within a period of six weeks from today.

With these observations, the present petition is disposed of.

It shall be the responsibility of the office to inform the Bench, if no report is submitted with the time prescribed.

All the pending miscellaneous applications, if any, are also disposed of.

February 20th, 2023

(ANIL KSHETARPAL)
JUDGE

Ay

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>