

123.

2023:PHHC:061690

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-8674-2023

Date of Decision: 01.05.2023

JYOTI

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Anurag Jain, Advocate and
Ms. Suruchi Sharma Tewari, Advocate for the petitioner.

JAISHREE THAKUR.J (Oral)

1. The present writ petition has been filed seeking to challenge the order as issued vide Memo No.CJH/PF/PB/2654-57 dated 15.04.2023 (Annexure P-10) passed by respondent No.4 where the services of the petitioner from the post of Assistant Professor (English) have been terminated without conducting any inquiry/disciplinary proceedings in accordance with law, being violative of the principle of natural justice and stigmatic in nature.

2. Learned counsel appearing on behalf of the petitioner would vehemently argue that despite the fact that there is a remedy of an appeal before the Educational Tribunal as set up, there is no bar with the High Court exercising its jurisdiction under Article 226 of the Constitution of India it being an efficacious remedy. He would rely upon judgment rendered in ***Whirlpool Corporation Versus Registrar of Trademarks, Mumbai and others, 1998(8) SCC 1*** wherein the Supreme Court has held that there is no

bar in a High Court exercising its writ jurisdiction despite alternative remedy being available especially in three contingencies, namely, *(i) where writ petition has been filed for the enforcement of any of the fundamental rights; (ii) where there has been a violation of the principles of natural justice; and (iii) where the order of proceedings are wholly without jurisdiction or the vires of an Act is challenged.* Learned counsel would argue that without any departmental enquiry being conducted or any opportunity of hearing, the services of the petitioner have been terminated.

3. I have heard learned counsel for the petitioner. Though the argument raised is attractive enough for issuing notice of motion but considering the fact that an Educational Tribunal has been set up to deal with similar situations, this Court refrains from exercising its jurisdiction under Article 226 of the Constitution of India. Apart from the order of termination being stigmatic in nature and having been issued without following the rules of natural justice and holding a departmental enquiry besides it being a non-speaking order, petitioner is also aggrieved against the non-supply of order dated 28.03.2023 which forms part of passing of the impugned order Annexure P-10.

4. Learned counsel for the petitioner would urge that without the aforesaid order having been supplied to the petitioner, he has been put to great disadvantageous position and, therefore, prays copy of said order to be supplied to him expeditiously so that he may prepare the grounds of appeal to be presented before the Educational Tribunal.

5. The request of the counsel for the petitioner to such an extent seems to be justified.

6. Notice motion to respondents No.1 and 2 limited to the extent of non-supply of copy of the order dated 28.03.2023 to the petitioner on the basis of which the termination order Annexure P-10 has come to be passed.
7. Respondents No.3 and 4 though not present before this Court can still be directed to supply copy of the order dated 28.03.2023 to the petitioner/counsel for the petitioner.
8. Mr. Anant Kataria, DAG, Haryana, who is present in Court, accepts notice on behalf of respondents No.1 and 2, is directed to furnish a copy of this order to the said respondents for due compliance.
9. Needless to say, copy of the order would be supplied to the petitioner within a period of three days on receipt of certified copy of this order.
10. In case the petitioner files an appeal within a period of two weeks from today along with any application for stay of the impugned order before the Educational Tribunal, the application for stay shall be decided by the Tribunal expeditiously, preferably within a period of 10 days thereafter.
11. The writ petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

01.05.2023

sanjeev

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No