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

**CWP-16365-2015(O&M)
Date of decision : 28.04.2023**

Poonam Garg

..... Petitioner

versus

Punjab Education Development Board and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Ms. Shivani Sharma, DAG, Punjab.

Mr. Sukhmeet Singh, Advocate for
Mr. A.S. Dhindsa, Advocate
for respondent No.4.

PANKAJ JAIN, J. (Oral)

By way of present writ petition, the petitioner has invoked writ jurisdiction of this Court seeking writ in the nature of certiorari for quashing order dated 09.03.2015 (Annexure P-7), whereby the petitioner has been removed from the post of Principal of Adarsh Senior Secondary School in village Pacca, District Faridkot without any notice, chargesheet and without supplying her copy of inquiry report.

2. Petitioner was appointed as Principal/Director in Adarsh School at village Pacca, District Faridkot. The concept of 'Adarsh Schools' has borne out of an intent of State to experiment working in the field of education by partnering with the private players. The concept was initiated with an objective to develop these model schools on CBSE pattern. The operational cost/functional cost and the fixed

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cost were to be borne and shared *inter se* between the private partner, and the State. State paying the lion's share and the management vesting with the private partner. However, there are neither any model rules framed by State of Punjab to be followed nor it was ever ensured that a private partner must frame Rules governing the service condition of such employees. This has already proved to be a super breeder of litigation.

3. Be that as it may, in this case it is admitted case of the parties that after the private partner left the Management, SDM, Kotakpura was appointed as Administrator and thereafter, SDM, Faridkot was appointed as such. Respondent No.4, the then Deputy District Education Officer started visiting the school in his official capacity. In the year 2014, he was appointed as Administrator of the School by the Deputy Commissioner, Faridkot. Petitioner claims that respondent No.4 started harassing her with an intent to exploit. On 25.05.2013, an inappropriate message was sent by respondent No.4 on her mobile number at 10.46 p.m. Perturbed by his behaviour, the petitioner complained of the aforesaid incident to the knowledge of Education Minister, Punjab. The said complaint made by the petitioner to the Education Minister was acted upon. On 31.12.2014, following order was passed by the Deputy Commissioner, Faridkot:-

“xx xx xx

Smt Poonam Garg, Principal Adarash Senior Secondary School Pacca Faridkot has made a complaint against Sh. Suresh Arora, Deputy D.E.O (S) Faridkot, before the Hon'ble Education Minister Punjab, which is pending consideration with the

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Government of Punjab. Therefore, due to the administrative reasons, District Education Officer (Secondary Education) Faridkot is appointed as Administrator of Adarash School Pacca.

These orders shall apply with immediate effect.”

4. Undeterred, respondent No.4 refused to mend his ways and rather as an act of vengeance started action against the petitioner and passed order dated 12.01.2015. Relevant extract of the same reads as under:-

“xx xx xx

Principal is warned that earlier instructions by the undersigned that the staff of the school should come in proper dress as a model teacher but it is sorry to say that the instructions are not being obeyed. It is again directed that in future the school staff should come in a proper dress. Strict action will be taken against those who will disobey the orders.”

5. The same was followed by a communication dated 31.01.2015, whereby the petitioner was asked to come present to face inquiry. The same finally culminated in the impugned order dated 09.03.2015 (P-7) which reads as under:-

“xx xx xx

1.0 Kindly have attention on the aforementioned subject and the reference.

2.0 Through letter under reference the report of enquiry received from the Enquiry Officer-cum-Deputy District Education Officer which is addressed Deputy Commissioner, financial irregularities and misuse of the designation have

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come forth against Smt. Poonam Garg Principal Adarash School Pacca (Faridkot).

3.0 Smt. Poonam Garg Principal Adarash School Pacca was appointed as Principal Adarash School Pacca from Baba Ishar Singh Educational Society Gagra, Kot Ise Khan Moga under public private partnership arrangement and her pay and service rules were also fixed by the society. Therefore, keeping in view the report of the Enquiry Officer and by taking action against the employee she is relieved forthwith with the instructions to her to report to her appointing authority meaning thereby Chairman Baba Ishar Singh Educational Society, Gagra Kot Ise Khan Moga

4.0 Besides this the calculated recovery which becomes due from her on account of the financial irregularities committed during working in school be also recovered from the salary of the employee and the necessary legal action be taken and the information be sent to this office immediately.”

6. Vide aforesaid order, petitioner was ordered to be relieved forthwith. She was asked to report to her appointing authority i.e. Chairman, Baba Ishar Singh Educational Society Gagra Kot Ise Khan, Moga-the private partner, who had already abandoned the management of the school. Petitioner served legal notice through her counsel. Respondents in their written statement have taken a refuge behind an inquiry conducted by Mr. Shiv Pal Goel, District Education Officer (Elementary Education), Bathinda. The findings recorded by the Inquiry Committee read as under:-

“Investigating Committee has thorough examined the facts mentioned in the complaint,

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statements recorded by concerned parties and record available in this record and has found that:-

a. That allegations No.1 to 6, are leveled by the complainant against Sh. Suresh Arora, Deputy D.E.O., who was Parbandak of the School, personally. According to which allegations of indecent acts by Sh. Suresh Arora, use of indecent language, phone call in the evening, message sent on mobile in May 2013 and Visit in an inebriated condition at the house of complainant, appeared to be serious, but in this regard except the message of mobile phone so sent with ill intention in May 2013, complainant could not prove any no other witness or evidence from where it could be proved that Sh. Suresh Arora has done an indecent act with complainant. This fact is likely to be considered that message so done was of May 2013, whereas complaint was made in December 2014.

b. With regard to allegation No.7 and 8, the facts came into light that upon the verification of the concerned bills from two principals, some objection were raised by them. Their verification and compliance is pending. Whereas there is concern about the asking of Sh Suresh Arora that Bills are at home, come at home will sign, in this regard no witness of occurrence was produced. Only Smt. Karamjeet Kaur Chairman School Management Committee has got recorded in her statement that Smt. Poonam Garg complainant has informed her on phone that Sh. Suresh Arora is saying that Mada he forgot the bills at home. Even otherwise, Government

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record is available with concerned Dealing assistant in the office not at the house of concerned officer.

Conclusion: From the above detailed report, committee has come to the conclusion that allegations leveled by the complainant are not proved clearly.”

7. A bare perusal of the inquiry report would reveal that the findings recorded as result of total non-application of mind. Apart from mobile and messages what more evidence was required to indict respondent No.4 that too in enquiry is beyond comprehension. How a person of the rank of District Education Officer can record such findings that too when the allegations involve harassment of a lady employee. Secretary (Education), State of Punjab is directed to consider the inquiry report and if feel appropriate, take action against the members of the Inquiry Committee. The Court refrains itself from commenting further on the report lest it may prejudice the authorities.

8. Apart from that State counsel has with eloquence pressed upon the alleged allegations and the inquiry report against the petitioner. However, she is not in a position to dispute that before initiating inquiry, neither any chargesheet was issued to the petitioner nor any response was ever solicited from the petitioner before passing of the aforesaid order. On being specifically asked w.r.t. the status of the employees working in the aforesaid school who were employed by the same private partner, she is candid in admitting that those employees are still working in the same school. The impugned order passed by the Member Secretary, Punjab Education Development Board

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is being relieved forthwith to report to her employer. In case the aforesaid averment is taken on the face of it, if the authority is conscious of the fact that it is not the employer of the petitioner. How and in what capacity, the Board can pass order of reliving her and can order recovery from her remains unexplained.

9. In view of aforesaid facts and keeping in view that whole action at the hands of the respondents not only is in the teeth of basic tenets of natural justice but also smacks of malice, the present writ petition is allowed. Impugned order dated 09.03.2015 (P-7) is ordered to be set aside. Petitioner is ordered to be reinstated alongwith all consequential benefits. I deem it be appropriate to direct SSP, Faridkot to look into the allegations levelled against respondent No.4 and in case cognizable offence is made out to register the case and proceed in accordance with law. The consequential benefits be released to the petitioner within 02 weeks from the date of receipt of copy of the order and she be reinstated forthwith.

10. Ordered accordingly.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

28.04.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No