

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.1282 of 2017 (O&M)
Date of Decision.13.02.2023

Jat High School Society, Kaithal ...Petitioner
Vs
Harsha Kaushal and others ...Respondents

2. CWP No.1326 of 2017 (O&M)

Jat High School Society, Kaithal ...Petitioner
Vs
Rajmani and others ...Respondents

3. CWP No.2017 of 2017 (O&M)

Jat High School Society, Kaithal ...Petitioner
Vs
Rajesh Kumar and others ...Respondents

4. CWP No.2030 of 2017 (O&M)

Jat High School Society, Kaithal ...Petitioner
Vs
Sunita Rani and others ...Respondents

5. CWP No.2031 of 2017 (O&M)

Jat High School Society, Kaithal ...Petitioner
Vs
Jasbir Sandhu and others ...Respondents

6. CWP No.2046 of 2017 (O&M)

Jat High School Society, Kaithal ...Petitioner
Vs
Suman Laller and others ...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Raj Kapoor Malik, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Sanjiv Kumar Aggarwal, Advocate
for private respondent.

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JAISHREE THAKUR J. (ORAL)

1. This order of mine shall dispose of afore-captioned seven writ petitions arising out of the same cause of action. However, for the sake of brevity, facts are being enumerated from CWP No.1282 of 2017.

2. Petitioner-Society approached this Court by invoking the jurisdiction of this Court under Article 226/227 of the Constitution of India seeking a writ in the nature of Certiorari for quashing judgment dated 17.12.2016 (Annexure P-10) passed by Education Tribunal, Kaithal vide which services of respondent No.1 have been reinstated with continuity of service.

3. Learned counsel appearing on behalf of the petitioner-Society would submit that the petitioner i.e. Jat High School Society, Kaithal is a registered Society under the Societies Registration Act and is running an educational institution at Kaithal for imparting education at school level. Services of respondent No.1 were terminated on the basis of a resolution passed. There was a proposal to terminate services of some of the Teachers/Lecturers, as they were not possessing essential eligibility qualification for their respective posts. A Committee was constituted to enquire about unqualified staff and surplus staff and on the report being submitted by the said Committee, a decision was taken on 23.05.2016 to terminate services of those employees, who were surplus and did not have the necessary qualification/eligibility to teach. Aggrieved persons filed appeals before the Education Tribunal/Appellate Authority, Kaithal against the impugned order of termination, which was allowed vide impugned order dated 17.12.2016 holding that the termination vide resolution dated 23.05.2016 was bad and therefore, set aside. The appellants therein were held entitled to be reinstated in service without benefit of salary during the period they had not worked but would be entitled to continuity of service with all other consequential benefits.

Aggrieved against the said order, petitioner-society i.e. the educational institution is before this Court by way of writ petitions.

Learned counsel appearing for the petitioner-Society would contend that the impugned orders as passed by the Appellate Authority are vitiated on the ground that it has not taken into account that the private respondents herein did not have necessary qualification i.e. J.B.T. certificates, which was a condition precedent for appointment. It is argued that there is a surplus staff, which is causing unnecessary financial burden upon the said society, which is an unaided society and therefore, the impinged order deserves to be set aside.

Per contra, learned counsel appearing for the private respondents would submit that there is no infirmity in the impugned order, considering the fact that before passing of said order, no show cause notice was issued and therefore, rules of natural justice have not been complied with. Further, it is argued that Chapter IV of Haryana School Education Act, 1995, which deals with Terms and Conditions of Service of Employee of Aided Schools and Taking Over the Management thereof, envisages that any termination shall be subject to Section 8 (2) of the said Act. As per the said Section, no employee of a recognized private aided school shall be dismissed, removed or reduced in rank nor shall his services otherwise be terminated except with the prior approval of the Director or his nominee. In the instant case, no such prior approval of the Director is available. It is also argued that there was a contract that was entered into between the parties and termination, if any, could have been in consonance with the said contract.

I have heard learned counsel for the parties and have perused the paper book. Be that as it may, this Court is of the opinion that rules of natural justice have not been complied with as a show cause notice ought to have been

issued to the private respondents herein before any order of termination was passed. Resolution was passed to dispense with services of those Teachers, who were ineligible and of surplus staff without putting them to notice. The Committee as formed came to the conclusion on its own that private respondents herein were ineligible and did not have the requisite qualification of JBT, however, they were never associated with such enquiry or given an opportunity to produce said certificates. Same is the situation with the surplus staff, as no due opportunity of hearing was given to them. Whether or not, the petitioner-Society is aided or unaided, is not clear from the pleadings and therefore, while setting aside the impugned order of the Tribunal and the impugned order of terminating the services of private respondents herein, the petitioner-Society is given an opportunity to proceed, if it so desires, against the said respondents in accordance with law, after giving them due opportunity of hearing. The petitioner-Society is at liberty to serve a show cause notice to the private respondents herein, which would be in compliance with the principles of natural justice. Since the private respondents herein are out of service and deprived of an opportunity of earning, show cause notice, if any, be served upon them within a period of two weeks on receipt of certified copy of this order and further proceedings in respect thereto, shall be completed within a period of two months thereafter.

All writ petitions stand disposed of in above terms.

(JAISHREE THAKUR)
JUDGE

February 13, 2023
Pankaj*

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