

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

213

CWP-534-2018 (O&M)
Date of Decision: 14.03.2023

VINEY SINGH

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Anil Kumar Ghanghas, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana
for respondents No.1 to 3.

Mr. Amit Kumar Goyal, Advocate
For respondents No.6 and 7.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking issuance of directions to the official respondents to conduct an inquiry against respondent No.4 to 7.

Briefly summarized, the facts of the present case are that the petitioner, who claims himself to be a public spirited person, has approached this Court alleging that respondent No.4 is working as a Lecturer of Biology, in Government Model Sr. Secondary School, Tosham, District Bhiwani, respondent No.5 is working as Lecturer of Chemistry in a Government Aided School namely Vaish Senior Secondary School, Bhiwani and respondent No.6 and respondent no.7 are working as Lecturers of Physics and Maths respectively in Government Aided School namely T.I.T. Senior Secondary School, Bhiwani. All the abovesaid teachers are alleged to be pressurizing the students to take tuitions from a coaching institute namely Bhiwani Science

Institute run by Jai Ambe Education Society (regd.) which is run by the wives and relatives of respondents No.4 to 7. It is contended that Smt. Kiran Verma, wife of respondent No.6 is the President, Smt. Kusum Sharma, wife of respondent No.7 is the Vice President and Smt. Reena wife of respondent No.5 is the cashier of the said Society. It is further contended that the respondents No.4 to 7 are teaching in Government School and in the Government Aided Schools and as per the Service Rules and Government Instructions, such teachers cannot teach in private school/coaching institute while being in Government Service.

The petitioner claimed to have sent complaints against the conduct of the above said persons/officials to various Authorities but no action had been taken thereupon. The present petition was accordingly filed for seeking issuance of directions to the respondent-Authorities to take appropriate action against the erring officials. Alongwith the present petition, the petitioner has also appended the affidavits of various parents of the students, who have allegedly paid tuition fee in the above mentioned coaching institute and it is averred that their children were taking classes at the above said coaching institute.

A short reply dated 06.12.2018 on behalf of the respondents No.1 to 3 has been filed. The relevant extract of the same is reproduced hereinafter below:

“2. That it submitted that the contents of the complaint have been duly examined by the answering deponent and it has been decided to constitute a committee consisting of three members headed by the under- signed to conduct a proper Enquiry in this connection accordingly. The names and post held by the committee members are mentioned below:-

<i>Sr. No.</i>	<i>Name of the Officer</i>	<i>Post held</i>
<i>1.</i>	<i>Sh. Ram Avtar Sharma</i>	<i>District Education Officer.</i>
<i>2.</i>	<i>Sh. Rajender Sheoran</i>	<i>District Math Specialist</i>
<i>3.</i>	<i>Sh. Shayam Sunder</i>	<i>Section Officer O/o D.E.O. Bhiwani.</i>

3. That it is pertinent to mention here that prior to conducting an Enquiry in this regard, the petitioner was informed by the answering deponent and asked to fix an appropriate day/date, so that the same be conducted in the presence of the petitioner. Three officials letters vide dated 16-10-2018, 31-10-2018 and 13-11-2018 have been issued by the answering deponent and asked the petitioner to join the Enquiry-proceedings in this instant matter. The true copies of the same are attached herewith as Annexure R-1 to R-3.

4. That it is worthwhile to mention here that on dated 07-09-2018, the committee members have personally inspected the "Coaching Centre in question" (i.e. Bhiwani Science Institute, Bhiwani run by Jai Ambe Education Society) by way of surprise visit. However, none of the private respondents No.4 to 7 was present in the above mentioned coaching centre at that time.

5. That it is necessary to mention here that on dated 18-11-2018 at about 4.30 pm the petitioner asked the answering deponent for surprise visit of the coaching centre in question for conducting the enquiry. Then, the members of the Enquiry committee along with the petitioner have visited as well as inspected the premises of coaching centre and found some students, a female teacher namely Sheetal Sharma and a receptionist. However, the respondents No.4 to 7 were not found there, then the committee members have also enquired about the respondents No.4 to 7 from the receptionist of the coaching centre "whether the respondents No.4 to 7 reach their respective subject in the coaching centre?" The receptionist answered in

negative. All the enquiry proceedings in the coaching centre have been conducted in the presence of the petitioner.

6. That it is significant to mention here that before conducting the proceedings of Enquiry, the respondents No.4 to 7 have also been summoned and asked them to explain the factual position regarding the allegations leveled against them. The respondents No.4 to 7 flatly denied the allegation of teaching in any private coaching centre. Moreover, the respondents No.4 to 7 have also submitted their affidavit, in which it is clearly mentioned that they did not teach in any coaching centre as tuition, nor get any money from any coaching centre. Furthermore, the complaint submitted by the petitioner, is basically wrong and baseless. The true copy of the affidavit submitted by the respondents No.4 to 7 are attached herewith as Annexure R- 4 to R-7 respectively and its true translation is attached as Annexure R-4/T to R-7/T.

7. That in addition to the above facts, it is quite necessary to clear here that "Earlier a preliminary enquiry has been conducted by the Tehsildar, Bhiwani on the basis of identical allegation. The petitioner has made a statement before Enquiry Officer-cum-Tehsildar Bhiwani that the complaint against Sh. Sunil Jain Lecturer in Biology and Sh. Banke Bihari Lect.-in-Chemistry made by him in wrong impression and also likely to be filed. The true Copy of the same is attached herewith as Annexure R-8 and its true translation is attached as Annexure R-8/T.

8. That it is noteworthy to mention here that on the basis of the inspection on the surprise visit of the "Coaching Centre" and the facts of the case, the matter has been examined by the above-mentioned committee and held that the allegations leveled against the respondents No.4 to 7 are not to be proved as at present the posting station of the respondents No.5 to 7 are about 30 to 50 KM from Bhiwani. As such, it seems that the respondents No.4 to 7 do not teach in the coaching centre.

proceedings in During the enquiry association with the petitioner, the member of selection committee asked him to mark his signature on the proper proceedings of "Enquiry". But the petitioner having adamant behavior, flatly refused to mark his signature. He did not co-operate during enquiry proceedings. However, the photograph of the petitioner and the answering deponent during the enquiry proceedings in the coaching centre in question is attached herewith as Annexure R-9 and the true Copy of the "Enquiry Report" is attached herewith as Annexure R-10 and its true translation is attached herewith as Annexure R-10/T.

As such the answering deponent has conducted an enquiry with association of the petitioner accordingly. Thus, the claimed relief has already been completed by way of conducting an enquiry in this connection. Therefore, the present writ petition has become infructuous.

In-view, of the above submissions made by the answering deponent, it is therefore, respectfully prayed that the present writ petition may kindly be dismissed being infructuous as well as devoid of merit in it."

A separate reply on behalf of respondents No.4 to 7 was also filed wherein they denied the allegations levelled herein.

Even though the reply by the said respondents had been filed on 06.12.2018, however, despite a lapse of nearly 4 years, no rejoinder had been filed by the petitioner controverting the reply filed by the respondents. Hence, the averments contained in the said written statement as extracted above have remained undisputed.

Counsel for the parties reiterated their submissions noticed above which are not being repeated. A specific query was raised to the

counsel as to whether he was parent of any child studying in the institute, to which his reply was in the negative.

It is thus evident that the petitioner has no personal grievance or cause of action to pursue any case against the private respondents. Besides, no satisfactory explanation has been given as to why the said parents cannot espouse their own grievance.

It has been held as a cardinal rule that a petitioner espousing a Private Interest Petition must be a person who suffers a legal injury. A writ remedy is invoked for enforcing a statutory or a legal right or a breach of a statutory duty on the part of the Authority giving rise to an enforceable right to the petitioner. A statutory duty can undoubtedly be enforced by a writ-court on being satisfied about the legal right of the person to seek its performance. The Hon'ble Supreme Court held in the matter of '**Ayaub Khan Noor Khan Pathan Vs. State of Maharashtra**' reported as **AIR 2013 SC 58** that the legal right sought to be enforced must ordinarily be the right of the person who complains of infraction of such right and approaches the Court for such relief. The Court further held in the matter of '**Kishore Samrite Vs. State of Uttar Pradesh and others**' reported as **(2013) 2 SCC 398** that a person must approach the Court bonafide and without abusing the process of law. Where a person is a stranger and unknown to the parties and has no interest in the outcome of the litigation, he can hardly claim locus standi to file such petition.

The locus of the petitioner is to be well disclosed especially when he has no personal interest in the final outcome.

Further, the petitioner is relying solely on the purported affidavit executed by the parents of the students. There is nothing on record to suggest

or to establish that the names of the students mentioned therein are actually the students of the said institute and/or are studying in the concerned school. Besides, the alleged parents/persons who have sworn the affidavits are not the parties herein to verify the due execution of the aforesaid affidavits. Hence, in the absence of any affirmation or verification of the status as claimed therein, the said affidavits are not worthy credence and cannot be taken into consideration to discredit/ disregard the inquiry conducted by the official respondents.

Besides, the facts averred in reply have not been controverted. The allegations levelled in the present petition have already been enquired into by the Authorities and the same have not been found to be correct. There is no reason to disbelieve such report only on the strength of allegations levelled by a stranger to the proceedings.

The present petition is accordingly dismissed.

(VINOD S. BHARDWAJ)
JUDGE

14.03.2023.
rajender

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