

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

CWP No.27149 of 2019 (O&M)

Date of Decision:17.08.2023

Omprakash Sharma

...Petitioner

Vs

Governor, President of the Haryana Welfare Society for Persons with Speech & Hearing Impairment, Haryana Raj Bhawan, Chandigarh and others

...Respondents

2. **CWP No.17952 of 2019 (O&M)**

Arun Kumar

...Petitioner

Vs

Governor, President of the Haryana Welfare Society for Persons with Speech & Hearing Impairment, Haryana Raj Bhawan, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Raman Chahar, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Sandeep Sharma, Advocate
for respondent No.2.

Mr. Harmanjit Singh Gill, Advocate
for respondents No.3 to 5.

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HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order both writ petitions, details of which have been given in the heading are being decided as, these petitions involve similar facts.

2. Learned counsel for the petitioner(s) submits that in the present petitions, impugned orders dated 26.04.2019, copies of which have been appended as Annexures P-7 and P-8 in CWP No.27149 of 2019 and 17952 of 2019 respectively, have been passed on the basis of apology tendered by petitioner(s), which was not a voluntary apology but was a coercive one, hence, any action

taken on the basis of said apology against the petitioner(s) is violative of Article 14 and 16 of the Constitution of India and the impugned orders, which are consequences of said apology, are liable to be set aside.

3. Learned counsel appearing on behalf of respondent-Society submits that in the present case, argument of counsel for the petitioner that the apology tendered by the petitioner was coercive is totally incorrect and false as, no such facts have been brought before this Court even to *prima facie* show that the petitioner was coerced to give in writing an apology qua the incident/allegations alleged against him.

4. Keeping in view the divergent stands being taken by the parties, the case in hand relates to disputed question of fact, which can only be gone into evidence and the Civil Court has jurisdiction to decide the same. The judgment of the Hon’ble Supreme Court rendered in Civil Appeal No.2848 of 2021 titled as *Shubhas Jain Vs. Rajeshwari Shivam and others* decided on 20.07.2021 wherein it has already been settled that High Court cannot entertain the disputed question of fact, can be relied upon in this regard.

5. Keeping in view the above, both the writ petitions are disposed of, relegating the petitioner(s) to avail an appropriate remedy before the Civil Court.

6. Civil. Misc. Application pending, if any, is also disposed of.

(HARSIMRAN SINGH SETHI)

JUDGE

August 17, 2023

Pankaj*

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