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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-17983-2023 in/and
CWP-34985-2019 (O&M)
Date of Decision: 19.10.2023

VIJENDER SINGH NOONWAL

.....Petitioner

V/s.

RAYAT BAHRA UNIVERSITY AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. Piyush Khanna, Advocate,
for the applicant-respondents.

Mr. Nitin Sachdeva, Advocate,
for the non-applicant/petitioner.

SANJEEV PRAKASH SHARMA, J (Oral)

1. Application bearing CM-17983-CWP-2023 is filed by the respondents seeking dismissal of the Writ Petition pointing out that the applicant is a Private University and the remedy lies with the Education Tribunal.

2. This Court, in the case of Kasturi Lal Saggar Vs. DAV College of Education, Hoshiarpur through President, DAV College Managing Committee, Hoshiarpur and Others; CWP-1227-2001 (O&M) has dismissed the Writ Petition by giving liberty to the petitioners to pursue the alternate efficacious remedy before the Education Tribunal holding as under

“Further, this Court finds that the provision for filing Appeal existed at the time when the Writ Petition was filed before this Court and the Writ Petition was, therefore, not maintainable at the initial stage itself. This Court finds that the Tribunal has not been formed by exercising the power under Article 323-A or Article 323-B of the Constitution of India and the same does not have status to that of the Central Administrative Tribunal or the Armed Forces

Tribunal nor can it be equated to that of the Income Tax Appellate Tribunal.”

3. In view of the above and considering the prayer made by the applicant-respondents, the Writ Petition is dismissed with liberty to the petitioner to file an Appeal before the Tribunal. The petitioner would be free to take all the grounds as raised in the present Writ Petition before the Tribunal. However, any interim order passed by this Court in this Writ Petition would be duly considered by the Tribunal and appropriate order shall be passed while hearing the appeal.

4. If such an appeal is preferred by the petitioner before the Tribunal within a period of two months henceforth, the same shall be entertained without delving on the question of limitation, keeping in view Section 14 of the Limitation Act, 1963, and it is expected that the Tribunal shall decide the same on merits expeditiously preferably within a period of 1 year but latest by 2 years.

5. Application is allowed and the main Writ Petition CWP-34985-2019 (O&M) is dismissed with liberty to file an appeal before the Education Tribunal.

6. All pending applications filed in this Writ Petition shall stand disposed of.

October 19, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]

JUDGE

Whether speaking / reasoned : *Yes/No.*

Whether Reportable : *Yes/No*