

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

LPA-2109-2023 (O&M)
Date of decision:- 20.12.2023

Dr. Kawaljit Kaur

...Appellant(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Rajdeep Singh Cheema, Advocate,
for the appellant.

* * * *

RITU BAHRI, A.C.J. (ORAL)

CM-5275-LPA-2023

For the reasons mentioned therein, the delay of 53 days in filing the appeal is condoned.

The application accordingly stands disposed of.

LPA-2109-2023

This appeal is directed against the judgement and order dated 21.09.2023 passed by the learned Single Judge dismissing CWP-18679-2023 filed by the petitioner (appellant herein) and relegating her to take up the matter before the Education Tribunal, Punjab and also against an order dated 09.11.2023 dismissing CM-18139-CWP-2023 seeking recall of the order dated 21.09.2023.

Learned counsel for the appellant, *inter-alia*, contends that as per the judgement dated 13.09.2018 rendered by a Division Bench of this Court in CWP-8922-2017 titled as *Gurwinder Singh and others Vs State of Punjab and others* (Annexure A-1), the notification dated 15.01.2015 has been examined and it has been quashed holding that on the basis of this notification, salary of the Principal working in a private aided college cannot be below the criteria fixed by the State Government and if such violation is done, the Education Tribunal is not competent to examine this issue.

Notice of motion.

On asking of the Court, Ms. Lavanya Paul, learned Deputy Advocate General, Punjab, accepts notice on behalf of respondents No. 1 and 2.

Learned State counsel has informed that even in paragraph 2 at page No. 190 of the reply dated 20.07.2023 filed by the Deputy Director, Directorate of Higher Education, Punjab, it is stated that an SLP filed vide diary No. 4762 of 2020 against the judgement and order dated 13.09.2018 (Annexure A-1) is pending before the Supreme Court, wherein notice of motion has been issued and decision of the Supreme Court is still awaited.

Learned counsel for the appellant has referred to a judgement dated 16.02.2023 rendered by a Division Bench of this Court in a bunch of writ petitions the lead case being CWP-17064-2017 titled as *Ajay Kumar Singla and others Vs State of Punjab and others* (Annexure A-2) which were allowed on the ground that the notification dated 15.01.2015 has already been quashed in the case of *Gurwinder Singh and others* (supra) and there is no need to quash it again.

Keeping in view that the judgements dated 13.09.2018 (Annexure A-1) and 16.02.2023 (Annexure A-2) were already part of the record before the learned Single Judge and the cause of action cannot be decided by the Education Tribunal, Punjab, the present appeal is allowed and the impugned judgement and order dated 21.09.2023 is set aside and the matter is remanded back to the learned Single Judge to decide the writ petition afresh after the decision of the Supreme Court in the SLP after going through the judgements at Annexure A-1 and A-2.

Since the main appeal is allowed, all the pending miscellaneous applications stand disposed of.

(RITU BAHRI)

ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)

JUDGE

20.12.2023

Amodh Sharma

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