

2024:PHHC:065542-DB



Neutral Citation No.

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(107)

LPA-1177-2024 (O&M)

Decided on : 10.05.2024

Rupesh Kumar & others

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,  
ACTING CHIEF JUSTICE  
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr.D.S.Patwalia, Sr.Advocate  
with Mr.Gaurav Rana, Advocate, for the appellant(s).

\*\*\*\*\*

**G.S. Sandhawalia, Acting Chief Justice (Oral)**

CM-2830-LPA-2024

1. Application for condonation of delay of 58 days in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the counsel. Delay of 58 days in filing the present appeal is hereby condoned.

2. CM stands disposed of.

LPA-1177-2024 (O&M)

3. Consideration in the present appeal, filed by the writ petitioners, is to the order dated 21.02.2024 passed by the Learned Single Judge in RA-CW-163-2020 in CWP-494-2015 whereby the earlier order dated 05.02.2020 was reviewed. The same was on the basis of the undertaking given by the associate for the main counsel of the University, the writ petition had been disposed of with the observation that the promotion granted to the writ petitioners were rightly granted and therefore, the threatened action impugned in the writ petition would not be acted upon in view of the instructions dated 04.05.2018 issued by the Government of Haryana providing for grant of

4. The Learned Single Judge, while allowing the review, restored the writ petition to its original number and the writ petitioners' objection was repelled on the ground that the writ petition had been disposed of without adjudication on merits. The concession being contrary to the pleaded case of the University and the affidavit having come from the Registrar that there was no explicit or implicit instructions issued to the counsel weighed with the Learned Single Judge. Resultantly, relying upon the judgment of the Apex Court, the University was held not to be bound by the statement made as there was nothing to show that there was any explicit or implicit instructions, while keeping in mind that the applicant-respondent was a State University and by recording a finding that concession was unauthorizedly given by the earlier counsel at variance with the stand. The argument raised by the appellant that the review was filed by engaging another counsel without getting the consent of the earlier Advocate, was rejected. It was also noticed that since the University had withdrawn the impugned order on 08.11.2023 subject to the final outcome of the review petition, it would not be a ground to render the application not maintainable and the order would be subject to the outcome of the application.

5. Senior Counsel, while taking us to the background of the case has tried to convince us that the review should not have been allowed, in the facts and circumstances.

6. However, a perusal of the file would go on to show that apparently the appellants had not been prejudiced in any manner as there is an interim order dated 06.02.2015 operating in their favour and the reversion order dated 06.12.2013 and the subsequent order dated 07.01.2015 (Annexure

P-8) which were subject matter of challenge in the writ petition, had been stayed. The protection has thus enured throughout the litigation and the Learned Single Judge did not deny the said benefit. As pointed out even by the University which vide order dated 08.11.2023, it has recalled the reversion order subject to final order of the review. The review application having been decided but the writ petition still pending, we are sanguine that the protection thus granted by this Court would continue during the pendency of the writ petition. In such circumstances, no prejudice having been caused to the appellants, we are of the considered opinion that the present appeal is not maintainable, in view of the law laid down by the Apex Court in **Midnapore Peoples Co-op. Bank Ltd. & others Vs. Chunilal Nanda & others, 2006 (3) SCT 115.**

7. Resultantly, in view of the above discussion, the present appeal is hereby dismissed in limine. All pending application(s) also stand dismissed.

(G.S. SANDHAWALIA)  
ACTING CHIEF JUSTICE

(LAPITA BANERJI)  
JUDGE

10.05.2024  
*Sailesh*

|                             |     |
|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |