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

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**CWP-19239-2021 (O&M).
Date of Decision: 01.10.2024.**

SAWASATHAY SHIKSHA SAHYOG SANGTHAN

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Abhinav Aggarwal, Advocate,
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. R.K. Malik, Sr. Advocate, with
Mr. Sunil Hooda, Advocate
for respondent No.4.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is for issuing directions to respondent-Department to decide the representation dated 22.06.2021 (Annexure P-6) sent by the petitioner to the Additional Chief Secretary, Haryana School Education Department and also for calling upon respondent

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No.3-the Sub Divisional Magistrate, Bhiwani, to submit his inquiry report in a time bound manner.

2 Learned counsel for the petitioner has argued that the petitioner-Sawasathay Shiksha Sahyog Sangthan, is a society registered under the Haryana Registration and Regulation of Societies Act, 2012 and children of the members of the petitioners-Sangthan are studying in various educational institutes in the State of Haryana.

3 It is submitted that respondent No.4 was appointed as District Education Officer on 19.01.1994 and was earlier alleged to be working at the post of P.R.T. at Kendriya Vidyalaya Air Force Campus, Sirsa. It was alleged that there was concealment of true and correct facts by respondent No.4 while seeking the aforesaid appointment from the Haryana Government and that despite having no disability, respondent No.4 secured the said appointment by producing forged and fabricated certificate of disability, He contends that the FIR No.174 dated 04.12.2009, under Sections 354, 363, 342, 294, 509 and 120-B of the Indian Penal Code, 1860 was also registered at Police Station Bawani Khera, against respondent No.4. A complaint was also submitted by the petitioner to the Sub Divisional Magistrate but no inquiry was conducted. A separate complaint was also submitted by the petitioner to the Department but the decision on the same was awaited due to which he writ petition was filed.

4 Consequent upon issuance of notice, short written statement on behalf of respondent No.4 had been filed, wherein it has been specifically

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averred that the petition deserves to be dismissed on the sole ground that the appointment of the petitioner was by way of recruitment under the general category and not on the basis of any disability certificate. It was further averred that false allegations about the respondent No.4 having rendered the services in two different Departments from 02.11.1995 to 06.02.1996 have been levelled. A specific objection was also raised that the petitioner is habitual of filing frivolous representations in numerous cases and that cost was imposed on him by the Hon'ble Court for filing false and frivolous representations. A cost of Rs.25,000/- was also imposed upon the petitioner in CRM-M-34698-2017 titled as 'Brijpal Vs. State of Haryana', vide order dated 14.11.2017 passed by this Court. The SLP preferred against the said order was also dismissed by the Hon'ble Supreme Court on 06.07.2018. The petitioner had also filed an FIR against the school teacher/Principal which was also dismissed on 31.07.2018. A representation was filed by the petitioner for investigation in FIR No.364 dated 14.05.2019 was also dismissed by this Court vide order dated 10.07.2019. The petitioner also illegally occupied the house of one Pardeep who filed a civil suit which was decreed and the petitioner was directed to vacate the suit property. One FIR No.71 dated 31.01.2023, under Sections 120-B, 420, 467, 468 and 471 of the IPC was also registered against the petitioner at Police Station Bhiwani, for obtaining forged signatures of Sarpanch and tampering in the date of birth. It was thus argued that the petitioner suffers from antecedents of filing false and frivolous complaints/representations to take undue benefits. A

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further objection has been taken that the petition is primarily related to a service matter and that the petitioner has no direct cause of action. The grievance espoused is in the domain of larger public interest and that public interest litigation in a service matter is not permitted.

5 A separate reply was also filed on behalf of respondents No.1 and 2 through Satpal Sharma, Special Secretary to Government of Haryana, Office of Director Secondary Education Department, Panchkula wherein it has been averred as under:-

“2. That Sh. Brij Pal Parmar (President of petitioner Sangathan) had filed complaint dated 22.06.2021 (Annexure P-6) against Sh. Ajit Singh, the then District Education Officer, Bhiwani, now Deputy Director O/o Directorate, Secondary Education by levelling various allegations. It is pertinent to mention here that similar complaint had also been filed by Sh. Santosh Kumar, Clerk, O/o District Education office, Bhiwani against Sh. Ajit Singh, the then District Education Officer, Bhiwani, now Deputy Director O/o Directorate, Secondary Education on CM window portal vide mm. CMOFF/N/2021/037734 dated 23.04.2021

3. That the complaint of Sh. Santosh Kumar, Clerk, o/o District Education office, Bhiwani was received in the respondent department prior to the petitioner's complaint and accordingly, Vivek Kalia, HCS, Additional Director o/o Director, Secondary Education, Haryana was appointed as Inquiry Officer to conduct preliminary enquiry into the allegations levelled against the alleged officer vide order no. 25/36-2021 HRG-I

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(2) dated 09-07-2021/ 14.07.2021. However, the contents of the complaint of petitioner and Sh. Santosh Kumar are similar in nature.

4. That the enquiry could not be concluded as Sh. Vivek Kalia, JCB, Additional Director O/o Director, Secondary Education, Haryana had been transferred to Additional Director (Admn) Information, Public Relations & Languages, Haryana vide order dated 24.12 2022.

5. That the undersigned had been appointed by the competent authority as an Inquiry Officer to conduct preliminary enquiry into the complaint of the petitioner vide order dated 30.01.2023/01.02.2023. The copy of the order is annexed herewith as Annexure R-1. Moreover, personal hearing has been granted to Sh. Ajit Singh on 27.02.2023 in the present matter for inquiry. The copy of the letter dated 06.02.2023 is attached herewith as Annexure R-2 The inquiry report has been submitted by the undersigned vide dated 07.06.2023 and further action will be taken as per the inquiry report.

6. That Sh. Mahesh Kumar, HCS, Sub-Divisional Magistrate, Bhiwani was appointed as Inquiry Officer to conduct enquiry into the complaint dated 28.12.2020 filed by the petitioner vide order dated 16.04.2021/26.04.2021 (Annexure P-3). Thereafter, Sub-divisional Officer (Civil), Bhiwani vide letter no. 3156/Steno dated 28.05.2021 intimated that Sh. Mahesh Kumar, HCS was transferred to District Rohtak. Thereafter, Sh. Sandeep Aggarwal, HCS Sub Divisional Officer (Civil) Bhiwani was appointed as Inquiry Officer vide order dated 23.07.2021/30.07.2021. The inquiry Officer submitted his

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report on dated 27.08.2021 wherein no direct evidence was found against Sh. Ajit Singh, District Education Officer, Bhiwani. True copy of the inquiry report dated 27.08.2021 is attached herewith as Annexure R-2/1.

7 That, moreover, the matter was also under investigation by the Police Department in FIR no. 294 dated 17.12.2020. Now, Superintendent of Police, Bhiwani has intimated vide letter no. 5030 dated 10.02.2023 that the charges/allegations levelled against Sh. Ajit Singh in FIR no. 294 dated 17.12.2020 has not been found proved against Respondent no. 4 and challan has been submitted under Section 173 Cr.P.C. before the Hon'ble District Court on 21.12.2022. The above-said FIR is pending for 25.08.2023. Further action will only be taken after the final outcome of the decision of the decision of Judicial Magistrate, Bhiwani.

8. That the enquiry report in pursuance to the order dated 07.06.2021 (Annexure P-4) has been received from Deputy Commissioner, Bhiwani vide no. CEA dated 20.01.2023 wherein the Respondent no. 4 has not been found guilty. However, the enquiry Officer has recommended for taking action against Geeta High School, Sewa Nagar, Bhiwani. True copy of the enquiry report dated 20.01.2023 is attached herewith as Annexure R-2/2.”

6 Even though the aforesaid responses were filed by the respondents No.1 and 2 in the month of July 2023 and on behalf of

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respondent No.4 in the month of February 2023, however, no replication to the same has been filed.

7 Counsel for the petitioner contends that even though the respondent No.3-the Sub Divisional Magistrate, has also concluded the investigation but no decision has been taken on the representation (Annexure P-6) submitted by the petitioner to the Director, Directorate of School Education, Panchkula, Haryana.

8 Considering the affidavit that had been filed by Special Secretary to Government of Haryana, Office of Director Secondary Education Department, Panchkula, wherein a specific stand has been taken that the representations have been duly considered and the enquiry report has been received from the Enquiry Officer i.e. the Sub Divisional Magistrate who had reported on 27.08.2021 that there is no direct evidence against respondent No.4 and also the fact that he has also reported that the allegations levelled against respondent No.4 have not been found proved and the same have remained unsubstantiated and that the allegations were not found to be established against respondent No.4. It is also noticed that even the report forwarded by the Deputy Commissioner, Bhiwani, vide C.E.A. dated 20.01.2023, respondent No.4 was not found guilty and, hence, no further action was required to be taken.

9 The counsel for the petitioner has also been confronted with the maintainability of the present writ petition considering that the petitioner has no direct grievance against the appointment of respondent

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No.4 who was appointed against the general category and not against a reserved category. This Court prima facie is inclined to impose a heavy cost upon the petitioner considering that the initiation of the present petition prima facie is an abuse of the process of the Court.

10 Faced with the above, counsel for the petitioner seeks permission to withdraw the present petition at this stage.

11 Counsel appearing for the respondents have no objection to the same.

12 Disposed of as withdrawn.

October 01, 2024
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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