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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18114-2024(O&M)
Date of Decision:16.12.2024

SRPA Adarsh Bhartiya College, Pathankot

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vipin Mahajan, Advocate, for the petitioner.

Mr. B.S. Bali, Additional Advocate General, Punjab.

Mr. Sameer Sachdeva, Advocate, for the applicant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 20.06.2024 (Annexure P-19) passed by the office of respondent No.2 vide which Managing Committee of the petitioner-College has been directed to clear arrears of pay fixation of unaided employees failing which the property of the College will be put to auction.

2. Learned counsel appearing on behalf of the petitioner while giving the brief facts of the case submitted that the petitioner-College is 95% aided College. He submitted that in the year 2011 some of the teachers of the aforesaid College had filed a petition before the learned Educational Tribunal,



Punjab for grant of various benefits including revised pay which was partly allowed by Educational Tribunal vide Annexure P-1 on 17.11.2011 whereby a direction was issued to the College and some officers of the College to release the revised pay scale to the petitioners of that petition w.e.f. 01.01.2006 in pursuance of the notification dated 02.09.2009. Thereafter, the aforesaid order of the learned Educational Tribunal was assailed by the College by filing a writ petition No.2519 of 2012 which was admitted and is still pending before this Court. Thereafter, on the basis of the aforesaid directions issued by the Educational Tribunal, a contempt petition was filed bearing COCP No.402 of 2014 wherein vide Annexure P-2 the Contempt Court took a serious view with regard to non-payment of the benefits as so awarded by the Educational Tribunal. Thereafter, the College considering the observations made by the Contempt Court passed a resolution (Annexure P-3) whereby a decision was taken to request the Court to either appoint an Administrator to run the College or to direct the State to take over the College including all assets and liabilities and in case the Court is not inclined to appoint the Administrator as aforesaid then the College will have to be shut down after getting requisite permission, if any, from the State/University. Thereafter, in compliance of the order of the Contempt Court an Administrator was appointed for the College on 13.11.2015 vide Annexure P-5 so that the College may not be shut down. The aforesaid contempt petition was thereafter disposed of vide Annexure P-6 since the Administrator stood appointed and from that date i.e. from the year 2015, the Administrator is continuing. Thereafter, two more contempt petitions were filed which were disposed of vide Annexure P-7 and P-8 and the counsel for the respondents therein had submitted that whenever college would have surplus amount qua arrears, it shall be disbursed. At that point of time, the



College was run by an Administrator. Since the benefit was not granted to the teachers, they again filed a writ petition No.11212 of 2017 which was disposed of vide Annexure P-9 directing the competent authority to decide the representation in accordance with law. Thereafter, vide Annexure P-10 an order was passed by the SDM-cum-Administrator on 18.08.2017 whereby it was so stated that as far as arrears in the revised pay scale are concerned, it is for the information that the same will be disbursed as per the orders of the Punjab and Haryana High Court whenever surplus funds are available. Thereafter another contempt petition was filed bearing COCP No.3027 of 2017 which is pending before this Court because the arrears were not paid to the teachers.

3. In the aforesaid contempt petition when the matter came up for hearing on 10.05.2023, an order was passed vide Annexure P-15 whereby the counsel for the petitioner as well as the counsel appearing for the College through its Administrator had submitted that the College has no funds to make the payment and they have no objection if the property of the College is put to auction to pay the arrears to the petitioners. Thereafter, in the aforesaid contempt petition on 27.05.2024, an order in compliance of earlier order was passed and it was also ordered that if the order is not complied with, respondent No.1 shall remain present before the Court vide Annexure P-18

4. Learned counsel for the petitioner further submitted that after the aforesaid order was passed by the Contempt Court, the impugned order (Annexure P-19) was purportedly passed by the DPI by way of a letter/notice which was issued to the Chairman of the Managing Committee, SRPA Bhartiya College, Pathankot who is the present petitioner by stating that keeping in view



the order dated 27.05.2024 passed by the Contempt Court, the payment of all the employees be made within 7 days i.e. upto 03.07.2024 and if the same is not done and the payment is not made within 7 days then the property of the College would be considered to be put to auction.

5. Learned counsel for the petitioner submitted that the challenge in the present writ petition is to the aforesaid notice/letter dated 20.06.2024 (Annexure P-19), whereby the Superintendent (Grant-1 Branch) of the office of DPI has given notice/letter to the petitioner-College through its Chairman to pay the pending amount to all the employees otherwise property will be put to auction. He submitted that although there was no objection given by the Administrator of the College vide Annexure P-15 in contempt petition and even a Resolution was passed by the College vide Annexure P-3, whereby as an alternative it was suggested that in case the Administrator is not appointed then property of the College be put to auction but the Administrator itself was appointed in the year 2015 and till date the College is being run through the Administrator and there was no occasion for the office of the DPI to have issued notice to the petitioner who is a Chairman of Managing Committee of College and cannot pay any arrears or money to the employees because now the Administrator is admittedly in place for the last 10 years and therefore, on the face of it, the aforesaid notice/letter (Annexure P-19) issued to the College was absolutely perverse and illegal. He further submitted that admittedly the College is being run by the Administrator for the last 10 years and therefore, there was no occasion for the office of the DPI to have issued the aforesaid notice/letter to the Chairman of Managing Committee of the College, although the office of the DPI could have considered taking some action against the College through the Administrator but not directly to the Managing Committee of the College and



therefore, the aforesaid notice/letter dated 20.06.2024 (Annexure P-19) is liable to be set aside and quashed.

6. Learned counsel also while referring to the aforesaid notice/letter (Annexure P-19) stated that the same has been issued by the Superintendent (Grant-1 Branch) and not by the DPI and has also referred to the vernacular of Annexure P-19 to show that the aforesaid notice/letter has been issued by the Superintendent himself and not by the DPI and the Superintendent had no power or any authority to issue such a notice/letter and therefore, on this ground as well the aforesaid notice/letter dated 20.06.2024 (Annexure P-19) is liable to be set aside.

7. On the other hand, learned State counsel while referring to the aforesaid facts and circumstances submitted that since the College is being run by the Administrator now in pursuance of the orders passed by this Court, the office of DPI could not have issued any notice/letter to the Chairman of the Managing Committee of the College, which is not operational and only the Administrator is in place.

8. I have heard the learned counsels for the parties.

9. It is a case where the only issue involved in the present writ petition is as to whether the aforesaid impugned order (Annexure P-19) would be sustainable in the eyes of law or not being addressed to Chairman of Managing Committee of College. Considering the aforesaid facts and circumstances as so stated by the learned counsel for the petitioner it is evident that as of today the College is being run by the Administrator for the last 10 years, which is an admitted position and not disputed. The petitioner has taken a specific plea in the petition that no such notice/letter could have been issued to the Chairman of Managing Committee of College because the College is being



run by the Administrator. However, a reply was filed by the State, which is only a short reply and not para wise reply. Even otherwise also, it is an admitted position in the reply as well that the College is being run by the Administrator and not by the Managing Committee of the College. Once the facts are absolutely clear and unambiguous and it is an admitted position that the College is being run by the Administrator for the last 10 years and not by the Managing Committee of the College, there was no occasion for any authority to have issued any notice/letter to the Chairman of the Managing Committee of the College. Therefore, on the face of it, the aforesaid impugned order (Annexure P-19) is perverse and is liable to be set aside.

10. Apart from the above, it is also evident from the perusal of Annexure P-19 and its vernacular form that the aforesaid notice/letter has been issued by the Superintendent (Grant-1 Branch) and not by the DPI. It is not understandable and it is rather very surprising as to how the Superintendent (Grant-1 Branch) has assumed jurisdiction and power to issue any notice to the College because the power, if at all, is vested with the Director of Higher Education i.e. DPI and not with the Superintendent and there is nothing on the record either in the reply filed by the State or otherwise to show that the DPI has applied his mind in issuance of the impugned notice/letter.

11. In view of the above, the present petition is allowed. The impugned notice/letter dated 20.06.2024 (Annexure P-19) is hereby set aside. It is however made clear that the aforesaid notice/letter is set aside by this Court on the ground that the same has been issued to the Chairman of the Managing Committee of the College, which is not operational and admittedly, the Administrator is operational who has been appointed by the orders of this Court.



Therefore, the present order would not preclude the competent authority to take any action against the Administrator, if any, in accordance with law.

12. Since the aforesaid order which has been issued by the Superintendent (Grant-1 Branch) and even if assumingly it has been so issued by the DPI, the same has been issued to the Chairman of the Managing Committee of the College, which is not in operation, this Court is of the considered view that the action of the respondents amounts to abuse of the process of law and therefore, some costs are required to be imposed upon the State of Punjab in this regard. The petitioner-College shall be entitled for costs of Rs.25,000/-, which shall be paid by the State of Punjab to the petitioner-College through its Administrator within a period of two months from the date of receipt of certified copy of this order. Initially, the aforesaid costs shall be paid by the State of Punjab and thereafter, the Principal Secretary, Department of Higher Education shall fix the responsibility of the officer(s) concerned, who issued the aforesaid notice/letter (Annexure P-19), which is *ex facie* illegal and perverse amounting to abuse of the process of law and recover the same from him in accordance with law.

13. No order is required to be passed on the miscellaneous applications as the main case has been decided on merits.

16.12.2024

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	Yes/No
Whether reportable	Yes/No