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HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RA-CW-354-2024 IN CWP-2744-2022

RA-CW-355-2024 IN CWP-9157-2021

VIJAY PAL SINGH

VERSUS

STATE OF HARYANA & ORS.

Present: Mr. PK Mutneja, Sr. Advocate with
Mr. Abhishek Joon, Advocate and
Mr. Guraman Singh, Advocate for the review applicant

Mr. BS Virk, Sr.DAG Haryana

These review applications under Order 47 Rule 1 read with Sections 114 and 151 CPC read with Article 226 of the Constitution of India on behalf of the petitioners against of the judgment dated 21.12.2023 (Annexure A1) passed in a bunch of cases including in CWP-2744-2022.

Learned counsel for the review-applicant/petitioners contend that this Court while dealing with the larger issue as to whether Cooperative Sugar Mills registered under the Haryana Cooperative Societies Act, 1984 would fall within the ambit of State or any other local authority of the State under Article 12 and is amenable to the writ jurisdiction specifically request for segregation of the matter from the bunch of petitions as the petitioner's case revolves around distinct argument, however, his case was taken and decided along with bunch and therefore, the judgment passed by this court does not pertain to the case of the applicant/petitioner.

It is argued that the applicant/petitioner cleared both the written test and interview for the post of Chief Engineer and this Court addressed upon Article 12 in the context of individual sugar mills whereas the role of Sugarfed which directed punishment against the applicant/petitioner needs to be

adjudicated separately. He further urged that the Committee formed by the Government vide its report dated 13.01.2020 supported the petitioner and found deficiencies in the work of M/s Himani Boilers which was further fortified by a committee of eight independent members supporting the case of the applicant/petitioner, however, despite that he was subjected to major penalty besides recoveries.

Heard learned counsel for the review-applicant/petitioner. This Court is of the considered view that the submissions advanced by learned counsel for review-applicant/petitioner is totally unfounded and misplaced. On perusal of record. It is to be seen that the argument regarding segregating the present case, facts cannot be viewed from a narrow compass as the maintainability issue otherwise would have to be dealt with in the instant writ petition as well filed by the review-applicant/petitioners, since the prayer made in the Civil Writ Petition is qua issuing a direction to consider the case of petitioner(s) for promotion. The appointing Authority undisputedly is the Managing Director of respondent No.3-the Palwal Coop. Sugar Mills Ltd. and, therefore, the promotion order is also to be passed by the said Authority. As far as quashing of order dated 29.12.2020 (Annexure P-11) alongwith chargesheet dated 26.03.2021 (Annexure P-12) in CWP-9157-2021 is concerned that order has also been passed by the Managing Director of respondent No.3. It is on this account, the segregation of case has been sought on the basis that the impugned order dated 29.12.2020 (Annexure P-11) was passed by the Managing Director, Haryana State Federation of Co-operative Sugar Mills Ltd. (Sugarfed)/respondent No.2 and on that basis the charge-sheet dated 26.03.2021 (Annexure P-12) has been issued, is totally unfounded and baseless, as the perusal of letter dated 29.12.2020 (Annexure P-11) communicated by

the respondent No.2/Sugarfed to the Managing Director (Sugar Mills-respondent No.3) is only stating that “*It is advised to take up the matter with the MDs of respective sugar-mills to charge-sheet the concerned Committee Members and a report in this regard also be submitted within 15 days*” is only qua seeking advice and, therefore, is advisory in nature, but not binding. In the light of this fact, it can, therefore, be easily culled out that Annexure P-12 is the impugned charge-sheet dated 26.03.2021, which has been admittedly issued by the respondent No.3/Sugar Mills against which the present writ petition has been filed

This Court has rightly adjudicated the question of maintainability of the instant writ petitions alongwith the bunch of other connected petitions without segregating the same, since, it also involves the identical and similar question of law. Moreover, against the impugned charge-sheet dated 26.12.2021 (Annexure P-12), the remedy to the petitioners is also available by way of an appeal, which lies before the Board of Directors of the Sugar Mill and this fact could not be denied by Mr. Pawan Kumar Mutneja, learned Sr. Advocate during the course of hearing of this review applications. In fact, he informs the Court that such remedy of appeal already stands exhausted by the petitioners, which stands dismissed.

Reliance can be placed on **Surendra Kumar Vakil and Ors. vs. Chief Executive Officer & Ors., (2004) 10 SCC 126** in which it has been held that a point that has been heard and decided cannot form a ground for review even if assuming that the view taken in the judgment under review is erroneous.

In another pronouncement of the Supreme Court in **Sivakami & Others vs. State of Tamil Nadu & Others reported in (2018)4 SCC 587**; the

scope of review petition in terms of order XLVII CrPC wherein very limited grounds are available pertaining primarily to error apparent on the face of record and a review petition cannot be entertained merely on account of the fact that another view is possible. The relevant portion of the judgment is as under:

"18. The scope of the appellate powers and the review powers is well defined. The power of review under Order 47 Rule 1 of the Code of Civil Procedure, 1908 is very limited and it may be exercised only if there is a mistake or an error apparent on the face of the record. The power of review is not to be confused with the appellate power. The review petition/application cannot be decided like a regular intra court appeal. On the other hand, the scope of appeal is much wider wherein all the issues raised by the parties are open for examination by the Appellate Court."

In the present case, apart from the judicial pronouncements as discussed hereinabove, the factual aspects having been duly considered, the case for segregation of these two civil writ petitions was not made out and the judgment dated 21.12.2023 (Annexure A-1) is just and proper as the same was passed after examining the material on record and as such there is no error apparent on the face of it.

Accordingly, review applications being devoid of merit are hereby dismissed.

Photocopy of this order be placed on the record of other connected case.

27.09.2024
V.Vishal

(Sandeep Moudgil)
Judge