IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

218 CWP-29678-2017 (O&M)
Date of decision: 06.11.2024

Mohd. Shahid Khan and others ...Petitioners

Versus

National Institute of Pharmaceutical Education and Research ...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present : Mr. K.K. Gupta, Advocate
for the petitioners.

Mr. Ashish Bansal, Advocate
for the respondent.

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AMAN CHAUDHARY, J. (Oral)

1. Prayer made in the present petition is for seeking implementation of the Minutes of the 26th Meeting of the Finance Committee of the respondent and reliance has been placed on the judgment passed in **Nisha Sharma and others vs. National Institute of Pharmaceutical Education and Research and another**, CWP-18268-2014, decided on 22.10.2018, against which there was no LPA filed. Relevant paras thereof read thus:

> "7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on the fact that respondent-Institute is creation of a Statute and is an autonomous body under the aegis of the Department of Pharmaceuticals, Ministry of Chemicals & Fertilizers, Government of India. The Government of India vide Memo No. F.No. 1/1/2008-IC dated 30.08.2008 notified the implementation of the recommendations of 6th Central Pay Commission vide Annexure P/1. The matter was before the Board of Governors of the respondent-Institute in its meeting held on 3.11.2008 and approved the recommendations of the 14th Finance Committee held on 10.10.2008 and consequently, revision of pay scales had taken place. Subsequently, vide Office Memorandum dated 30.09.2008, Government of India extended the revised pay structure implemented by the Government for Central Government employees to the

employees of autonomous organizations and on 7.10.2008 (Annexure P/3), the Ministry of Finance, Government of India had extended Part-B of the First Schedule to the 2008 Rules to the employees of autonomous bodies while noting that such an autonomous body should be in a position to bear the additional expenditure on account of upgradation involved with a further stipulation that only those categories of employees would be considered for such upgradation, whose pre-revised rules were the same as those in Part-B of the First Schedule to the 2008 Rules.

8. Thereafter, the said issue was duly examined and considered by the Finance Committee, a statutory Committee of respondent-Institute and recommendations were made by the Finance Committee for revision of pay scales w.e.f. 1-1-2006 after extending the benefit of Part-B of the First Schedule to 2008 Rules. The Finance Committee of the respondentInstitute again vide agenda No. 26.8 considered the implementation of Part-B of the First Schedule to 2008 Rules and the Central Secretariat Rules in the respondent-Institute. The Agenda was deliberated in the 26th meeting of the Finance Committee of respondent-Institute held on 6.3.2012 and the same was approved and recommendation was made for implementation of Part-B of First Schedule to the 2008 Rules w.e.f. 1-1- 2006. The recommendations made by the Finance Committee of the respondent-Institute were put up for consideration before the Board of Governors in its 56th meeting held on 29.3.2012 and the said recommendations were accepted/approved. Even respondents have not denied this fact. However, the respondents have come with the plea that the matter in controversy involves huge financial implication and for that purpose, specific permission was required to be taken from the Government of India on the basis of communication dated 7.10.2008 and without that, the decision taken by the Finance Committee and the Board of Governors could not be implemented. Contention was also raised in the written statement having been filed by the respondent-Institute that in case such demand of the petitioners and other similarly situated employees is accepted, the other employees working on technical side would be raising similar demand and the Institute will not be in a position to meet the said demand.

9. While taking into consideration the said plea, taken by the respondent-Institute, this Court is of the considered view that as per the provisions of the Act and the Statute of the respondent-Institute, the control and management of the respondent-Institute is with the Board of Governors. For ready reference, Statute 3.1.2 of the NIPER Statutes, which deals with Functions and Powers of the Board of Governors, is extracted below:-

> 3.1.2 Functions and Powers
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> In addition to the provisions under Section 8 of Act, the Board shall have the following powers:-
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> (a) to create posts subject to availability of funds, the determine the number and emoluments of such posts and

to define the duties and conditions of service of the employees of the Institute;

(b) to appoint Professor, Associate Professors, Assistant Professor and other staff in equivalent grades, as may be necessary on the recommendation of the selection committees constituted for the purpose;

(c) to regulate and enforce discipline among employees in the accordance with the Statutes, the Ordinances and the Regulations;

(d) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the Institute and for that purpose, to appoint such agents as it may think fit;

(e) to fix the limit of recurring and the non-recurring expenditure for a year on the recommendations of the Finance Committee;

(f) subject to the provisions of the Act, to invest any money belonging to the Institute including any unapplied income in any manner it thinks fit or in the purchase of immovable property in India;

(g) subject to the provisions of the Act to transfer or accept transfers of any movable or immovable property on behalf of the institute;

(h) to provide buildings, premises, furniture, apparatus and other means needed for carrying on the work of the Institute;

(i) to enter into, vary, carry out and cancel contracts on behalf of the Institute;

(j) to entertain, adjudicate upon and if thought fit, to redress any grievances of the employees of the Institute;

(k) to select a common seal for the Institute and provide for the custody and use of such seal;

(l) to delegate any of its powers to the Chairman, the Director, the Dean, the Registrar or such other employee or authority of the Institute or to a committee appointed by it, as it may deem fit;

(m) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

10. At the same time, functions and powers of the Director of the respondent-Institute have been detailed in Section 16 of the NIPER Act as well as Statute 14 of the NIPER Statutes. Section 16 of the NIPER Act is extracted below:-

"Section 16:-

(1) The Director of the Institute shall be appointed by the Board with the prior approval of the Visitor.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration and academic performance of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit and annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or the Ordinances.”

11. In the present case, the Board of Governors while relying upon the recommendations of the Finance Committee, which is otherwise a Statutory Committee of the respondent-Institute, accepted the recommendations. Meaning thereby that the Board of Governors who was competent to take such a decision as per the Statute must have considered all these aspects including financial health of the Institute and the liability involved in the matter. After having done so by the competent authority, respondent No.2, i.e. the Director of the respondent-Institute, cannot pass the impugned order 11.2.2014 (Annexure P/13) by over-reaching the recommendations made by the competent authority under the Act and the Statute. While passing the impugned order, respondent No. 2 has sought to assume jurisdiction and authority which does not vest in him under the NIPER Act and Statute. As such, the impugned order, issued by respondent no.2, is liable to be set-aside.

12. Resultantly, the present writ petition is accepted and the impugned order dated 11.2.2014 (Annexure P/13), passed by respondent No.2 stands set-aside.”

2. Learned counsel for the respondent despite his best efforts is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

3. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Nisha Sharma and others** (supra).

(AMAN CHAUDHARY)
JUDGE

06.11.2024
Hemant

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