



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-21234-2023 (O&M)

Date of decision: 13.09.2024

MANAGING COMMITTEE GURU GOBIND SINGH COLLEGE

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: - Mr. Pawan Kumar, Senior Advocate with
Ms. Vidhushi Kumar, Advocate and
Ms. Parul Dhingra, Advocate
for the petitioner.

Mr. Saurav Verma, Addl. A.G. Punjab.

Mr. Kirat Pal Dhaliwal, Advocate
for respondents No. 5 to 10 and 12.

Mr. H.C. Arora, Advocate and
Ms. Sunaina, Advocate
for respondents No. 15 to 21.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the initiation of an enquiry against the petitioner College under the Chairmanship of the Sub Divisional Magistrate, Barnala on receipt of a complaint alleging misappropriation of funds by the employees who have been removed from service and purely on account of political interaction.



2. Initially, an argument was advanced by the learned Senior Counsel for the petitioner that the grant for raising construction of an Auditorium as well as the Swimming Pool was released by the University Grants Commission and that the UGC itself directed and authorized the Punjabi University, Patiala (affiliated University) to conduct an enquiry and to submit a report to them. A notice had also been issued to the petitioner-Management and a response has already been filed. It was thus argued that the respondent-authorities have no jurisdiction to look into the complaints pertaining to the same allegations of misappropriation/embezzlement of the grants received from the UGC, of which the apex body is already seized.

3. Responding to the above, learned State Counsel refers to the provisions of the Punjab Affiliated Colleges (Security of Service) Act, 1974 as amended vide Act of 2021 amending various definitions. He refers to the definition of mismanagement which is extracted as under:-

h) "mismanagement" means managing the affairs in a way which leads to violation(s) of the regulations of the University Grants Commission or its successor regulatory body or bodies, as adopted by the State Government, or of the regulations prescribed by the concerned University or of the grant-in-aid scheme or any other law or the directions of the State Government and includes,-

- (i) failure to comply with the conditions of affiliation laid down by the University: or*
- (ii) misappropriation or misapplication of grants or funds received from the State Government, Government of India or through any of its instrumentalities or students;*
- or*



- (iii) *failure to take appropriate action under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Central Act No. 14 of 2013), despite having been called upon to do so or failure to take appropriate steps for the protection of the victim under the said Act; or*
- (iv) *taking pecuniary benefits by the members of the Managing Committee; or*
- (v) *taking actions which may defeat the national agenda of inclusive education; or*
- (vi) *violation of any other law applicable to the affiliated college."*

4. Relying on the above, learned Counsel contends that the State Government is thus competent to conduct an enquiry on receipt of complaint disclosing allegations of misappropriation of grants or funds received not only from the State Government but also from the Government of India or through any of its instrumentality or students. It is thus argued that the University Grants Commission being an instrumentality of the Government of India, the respondent-State and its office would be competent to conduct an enquiry on receipt of such allegations.

5. Learned Senior Counsel for the petitioner on being confronted with the above enabling provision under the Punjab Affiliated Colleges (Security of Service) Act, 1974 and that the power to conduct enquiry may not be barred and on being suggested that in the event the petitioner intends to press upon his argument, he is required to raise a challenge to the statutory provision, by way of an appropriate petition before the competent

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Court, he gives up his challenge to the competence of the respondents to conduct an enquiry into the allegations pertaining to misappropriation of the grants received from the University Grants Commission.

6. As a sequel, an argument advanced by the Senior Counsel is that the petitioner has utilized the grants received from the UGC and there is no embezzlement or misappropriation of the same. He contends that the Committee has now been constituted comprising of the Sub Divisional Magistrate (Barnala) and No.2-Principal, Government Ranbir College, Sangrur, No.3-Principal, Government College Sunam vide order dated 04.09.2023 bearing No. 563559 KA (1)/558 issued by the Director, Higher Education Department, Punjab, S.A.S. Nagar (College Education Branch). None of the said persons are technically qualified to assess the value of the work executed or ascertain the cost. He contends that in order to provide a fair opportunity and evaluation of the cost of the work executed, the matter should be enquired into by an expert Committee as may be so nominated by this Court. The aforesaid proposal for constitution of a fresh Committee by this Court is not opposed to by the State Counsel as well as the Counsel representing the private respondents. It is, however, contended that the petitioner-Management should be directed to produce the entire record before the Committee, that may be so constituted under the orders of this Court and that status quo be maintained till the enquiry by the aforesaid Committee is kept pending. I find that the aforesaid prayer is also reasonable.

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7. Accordingly, the present writ petition is disposed of at this stage, without commenting on the merits of the case and with the consent of the parties. The Committee constituted vide order dated 04.09.2023 by the Director, Higher Education Department, Punjab (College Education Branch) (Annexure P-21) shall stand superseded by a Committee headed by the Divisional Commissioner, Patiala as the Chairperson; ii) Superintending Engineer, PWD (B &R), Bathinda; and iii) An officer of the rank of Additional Director, Higher Education Department, Punjab (as may be nominated by the Director Higher Education) as its members.

8. The Enquiry conducted by the Committee already constituted and/or the documents collected by them shall also be forwarded by the above said Committee headed by the Sub Divisional Magistrate, Barnala to the new Committee ordered to be constituted by this Court. The report of Local Commissioner submitted before this Court may be obtained by the parties and be presented before the Committee as constituted today, for their assistance, and to know the exact nature of the status as on the date of passing of the order.

9. The Committee shall conclude its enquiry expeditiously and preferably within a period of three months of a receipt of certified copy of this order. It is made clear that in the event of any of the parties not cooperating or not appearing or abstaining from the proceedings, the same should not deter the Committee from completing its report.

10. The present writ petition is accordingly disposed of in terms of the aforesaid modification.



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11. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 13, 2024
Vishal Sharma

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