

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1534-2023 (O&M)
Reserved on: 19.01.2024
Pronounced on: 24.01.2024

Principal, DAV Public School
and others ... Appellants

Versus

District Judge and others ... Respondents

CORAM: HON’BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON’BLE MR.JUSTICE AMAN CHAUDHARY

Present: Mr. Rajiv Kataria, Advocate for the appellants

Mr. B.K. Kaushik-respondent No.3 in person

AMAN CHAUDHARY, J.

1. The instant appeal has been filed challenging the judgment dated 13.07.2023, passed by the learned Single Judge vide which the civil writ petition preferred by the appellants against the order of Educational Tribunal was dismissed.
2. Learned counsel for the appellants has submitted that due opportunities have been granted to respondent No.3 in the enquiry proceedings and there was thus no violation of principle of natural justice and the procedure was also duly followed. However still, the learned Single Judge has opined it to be otherwise and dismissed the petition.
3. Contrarily, respondent No.3, who appeared in person has submitted that the Education Tribunal as well as learned Single Judge have considered the matter in the corrective perspective, inasmuch as while supplying the copy of enquiry report vide letter dated 04.07.2014, Annexure P-4 (Colly.) and giving notice to him to respond to the same with the disciplinary authority having

recorded the proposed penalty of removal from service, thus, it being premeditated, grant of opportunity was a mere formality and of no consequence whatsoever. Had the order of punishment not been set aside by the Tribunal, grave prejudice would have been caused.

4. Having heard the learned counsel on either side, we are unable to countenance the submissions as advanced by the learned counsel for the appellants on the short point that *firstly*, the learned Single Judge has rightly taken into consideration that the disciplinary authority having already evaluated the enquiry report and even proposed the punishment to be awarded, thus reducing the practice of providing an opportunity to the respondent for addressing it, to a mere ritual. This being *ex post facto*, cannot be construed to conform with the principles of natural justice and fair play. *Secondly*, the right of the appellants has not been foreclosed to proceed against the respondent in terms of the liberty already available to it, which despite a period of about six months, has not been availed of.

5. On the aforesaid premise and as a fall out thereof, the present appeal sans merit is dismissed.

6. Since the parties are *ad idem* that the proceedings should be completed within a time bound manner, it is directed to finalise the same expeditiously preferably within a period of one year, which would be in the interest of both the parties.

7. Pending applications, if any, shall be rendered as disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(AMAN CHAUDHARY)
JUDGE

24.01.2024
ashok/gsv

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO