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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1633/2023 & CM APPL 6216/2023**

BALDEV SINGH

.....Petitioner

Through: Mr. Sachin Mittal, Ms. Bhawna
Nanda, Mr. Satyam Arora and Ms.
Khushboo Sharma, Advs.

versus

**UNION OF INDIA THROUGH ITS SECRETARY PERSONNEL &
ORS.**

.....Respondents

Through: Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly, Adv. with R-1 and 2.
Mr. Dipak K. Nag and Mr. Apurva
Upmanyu, Advs. for R-3&4.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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20.08.2024

1. The petitioner in the instant writ petition has prayed for following reliefs:-

“1. To issue a writ of mandamus or any other appropriate writ/order/direction, thereby directing the Respondents to ensure strict implementation and compliance of office memorandum dated 27.02.2020 annexed as ANNEXURE A2 and that any permission granted in violation of such office memorandum shall be illegal and void and further directing the Respondents to take action on the Complaint dated 06.09.2022.

2. To hold and declare that candidature of Respondent No 3 and 4 in elections held on 06.09.2017 for the post of delegates of Kendriya Bhandar was contrary to and in violation of Office Memorandum dated 27.02.2022 and consequently null and void.”



2. The petitioner essentially seeks for issuance of mandamus for implementation of the office memorandum dated 27.02.2020 regarding the sanction for holding an elective office under Rule 15(1)(c) of Central Civil Services (Conduct) Rules, 1964, wherein, the policy on fixing an upper limit of the number of years for which Government servants can hold an elective office was reviewed and two terms or a period of five years, whichever is earlier, was allowed as an upper limit and for which prior sanction of the Government would be required.

3. As per the petitioner, after the aforesaid office memorandum came into force, the elections for the post of delegates of the Govt. Employees Consumer Cooperative Society Ltd. (Kendriya Bhandar) were conducted on 01.09.2022. According to the petitioner, despite holding the office in the previous term for five years, respondent nos.3 and 4 have again been elected allegedly in violation of the said office memorandum. The petitioner subsequently appears to have made complaints regarding the election of respondent nos.3 to 4 with respondent nos.1 and 2. However, on account of alleged inaction of the said respondents, the petitioner has preferred the instant writ petition.

4. A perusal of the aforesaid office memorandum would manifest that the same incorporates the directions passed by the Department of Personnel and Training under the Ministry of Personnel, Public Grievances and Pensions for maintenance of departmental discipline.

5. The Constitution Bench of the Supreme Court in the case of *State of Assam v. Ajit Kumar Sarma*¹, while relying upon the decision in the case of

¹ 1964 SCC OnLine SC 94



*Raman v. State of Madras*², took a view that the mandamus will not lie to enforce the departmental manuals or instructions which do not have any statutory force. The relevant paragraph of the said decision reads as under:-

“13. We may in this connection refer to Raman v. State of Madras [(1959) Supp 2 SCR 227] where this Court had to consider certain orders and directions issued under Section 43-A of the Motor Vehicles (Madras Amendment) Act, 1948. The question arose whether the orders issued under Section 43-A had the status of law or not. This Court held that such orders did not have the status of law regulating the rights of parties and must partake of the character of administrative orders. It was further held that there could be no right arising out of mere executive instructions, much less a vested right, and if such instructions were changed pending any appeal, there would be no change in the law pending the appeal so as to affect any vested right of a party. That decision in our opinion governs the present case also, for it has been found by the High Court, and it is not disputed before us, that the Rules are mere administrative instructions and have not the force of law as statutory rules. They therefore confer no right on the teachers of private colleges which would entitle them to maintain a writ petition under Article 226 for the enforcement or non-enforcement of any provision of the Rules. The Rules being mere administrative instructions are matters between private colleges and the Government in the matter of grant-in-aid to such colleges, and no teacher of a college has any right under the Rules to ask either for their enforcement or for their non-enforcement. We are therefore of opinion that the High Court was in error when it granted a writ against the State through the Director, by which the Director was asked not to give effect to its letter dated March 20, 1962, against the Governing Body of the College.”

(emphasis supplied)

6. In view of the aforesaid, this Court is of the opinion that since the grievance essentially relates to an internal management of the Government Department, therefore, the employees may ventilate the same while taking recourse to the intra-departmental mechanism or any other remedy available as per law.

² (1959) Supp 2 SCR 227



7. Accordingly, the instant petition is not amenable to writ jurisdiction and hereby, stands dismissed. Pending application also stands disposed of.

AUGUST 20, 2024/p

PURUSHAINdra KUMAR KAURAV, J