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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision: **29.05.2026**

Harmanjot Singh

.....Petitioners

VERSUS

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Varun Mittal, Advocate for the petitioner.

Mr. Ishan Kaushal, AAG Punjab.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of an appropriate writ or order in the nature of *mandamus* directing the respondents not to stop from performing his duties who is serving with the respondents as Sewadar cum Chowkidar since the year 2023 and has already completed his probation period with the respondents and further directing the respondents to clear the withheld salary of petitioner at the earliest.

**PETITIONER'S CONTENTIONS**

2. Learned counsel for the petitioner, inter alia, contends that the petitioner completed his Matriculation in the year 2020 and Senior Secondary in the year 2022 from the Punjab School Education Board, as is discernible from Annexures P-1 and P-2. Respondent No.4, i.e. Dittupur Jattan Multipurpose Cooperative Sabha Limited, advertised the post of Sewadar-cum-Chowkidar vide Annexure P-3. The petitioner applied for the said post and was allegedly selected.

2.1 It is further submitted that although the petitioner was permitted to join and discharge duties, the formal joining/appointment letter was kept pending on the pretext that the same would be handed over after completion of the probation period. At the time of appointment, several documents, including blank papers, were allegedly got signed from the petitioner by respondent No.4.

2.2 Learned counsel submits that the petitioner completed his probation period of two years on 01.03.2025, but no confirmation letter has been issued till date. On 18.09.2025, the petitioner submitted a representation to respondent No.4 requesting confirmation of completion of probation period. However, respondent No.4 allegedly misbehaved with the petitioner and stated that he would not be allowed to mark attendance and that his salary would be stopped. It is further contended that on 25.09.2025, when the petitioner tried to go to respondent No.4-Society, he came to know from other employees that he had been expelled from the Society by misusing the blank papers signed by him and by converting the same into a

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resignation. The father of the petitioner also filed an application under the Right to Information Act seeking complete record of the proceedings book of respondent No.4. Respondent No.2 forwarded the same to respondent No.4 vide Annexure P-7; however, no further action has been taken.

2.3 Learned counsel further submits that the respondents are not allowing the petitioner to enter the premises and perform his duties and are in the process of appointing another person, who is stated to be a close relative of respondent No.4.

RESPONDENTS' CONTENTIONS

3. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that the present writ petition is not maintainable, as the entire claim is directed against respondent No.4, which is a Cooperative Society. It is further submitted that the petitioner has raised disputed questions of fact, which cannot be effectively adjudicated in exercise of writ jurisdiction under Article 226 of the Constitution of India. Accordingly, it is prayed that the present writ petition be dismissed being devoid of merit.

OBSERVATIONS AND ANALYSIS

4. I have heard learned counsel for the parties and have perused the record with their able assistance.

5. It transpires that the primary grievance of the petitioner is against respondent No.4-Society. The petitioner claims that he was selected



and appointed as Sewadar-cum-Chowkidar and that after completion of probation, he has been illegally prevented from performing duties. However, admittedly, no appointment letter has been placed on record by the petitioner to substantiate the terms and conditions of his appointment.

6. The allegations regarding signing of blank papers, conversion of the same into resignation, denial of entry into the premises, stoppage of salary and proposed appointment of another person are all seriously disputed questions of fact. Such issues would require appreciation of evidence, examination of documents and recording of factual findings, which cannot be undertaken by this Court in exercise of writ jurisdiction under Article 226 of the Constitution of India.

7. Further, learned counsel for the petitioner has not been able to cite violation of any statutory Common Cadre Rules or any other statutory service rules governing the petitioner's service. The petitioner has also not been able to demonstrate that respondent No.4-Society is under deep and pervasive financial or administrative control of the Government of Punjab so as to bring it within the ambit of Article 12 of the Constitution of India.

8. Thus, in the absence of any statutory service rules governing the petitioner, the dispute remains in the realm of a private service dispute with respondent No.4-Society.

9. Moreover, the issues raised in the present writ petition entail adjudication of disputed questions of fact, which would require appreciation



of evidence, an exercise that this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, is not equipped to undertake.

10. It is settled law that where disputed questions of facts are involved, a petition under Article 226 of the Constitution of India is not the proper remedy. A two-Judge Bench of the Hon'ble Supreme Court in ***S.P.S. Rathore v. State of Haryana, (2005) 10 SCC 1***, speaking through Justice Y.K. Sabharwal, has held as follows:

"16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must

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be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution."

11. Further, a two-Judge Bench of the Hon'ble Apex Court in ***Orissa Agro Industries Corporation Ltd. Vs. Bharati Industries, 2005 (12) 725***, speaking through Justice Arijit Pasayat, observed as follows:

"9. A bare perusal of the High Court's judgment shows that there was clear non-application of mind. On one hand the High Court observed that the disputed questions cannot be gone into a writ petition. It was also noticed that essence of dispute was breach of contract. After coming to the above conclusions the High Court should have dismissed the writ petition. Surprisingly, the High Court proceeded to examine the case solely on the writ petitioner's assertion and on a very curious reasoning that though the appellant-Corporation claimed that the value of articles lifted was nearly rupees 14.90 lakhs no details were specifically given. From the counter-affidavit filed before the High Court it is crystal clear that relevant details disputing claim of the writ petitioner were given. Value of articles lifted by the writ petitioner is a disputed factual question. Where a complicated question of fact is involved and the matter requires thorough proof on factual aspects, the High Court should not entertain the writ petition. Whether or not the High Court should exercise jurisdiction under Article 226 of the Constitution would largely depend upon the nature of dispute and if the dispute cannot be resolved without going into the factual controversy, the High Court should not entertain the writ petition. As noted above, the writ petition was primarily



founded on allegation of breach of contract. Question whether the action of the opposite party in the writ petition amounted to breach of contractual obligation ultimately depends on facts and would require material evidence to be scrutinised and in such a case writ jurisdiction should not be exercised. (See : State of Bihar v. Jain Plastic & Chemicals Ltd., 2002(1) SCC 216).

12. In a catena of cases this Court has held that where dispute revolves round questions of fact, the matter ought not be entertained under Article 226 of the Constitution. (See : ***Chairman, Grid Corporation of Orissa Ltd. (GRIDCO) and Ors. v. Sukamani Das (Smt.) and Anr., 1999(4) RCR (Civil) 174 (SC) : (1999(7) SCC 298).***)”

13. A Two-Judge Bench of the Hon'ble Supreme Court in ***Chairman, Grid Corporation of Orissa Ltd. (Gridco) Vs. Smt. Sukamani Das, 1999 (7) SCC 298***, speaking through Justice G.T. Nanavati, made the following observations:

“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and

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negligence was required to be established firstly by the claimants. Mere fact that the wire of the electric transmission line belonging to the appellant No. 1 had snapped and the deceased had come into contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come into contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy. The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the Civil Court as it was done in OJC No. 5229 of 1995.”

14. Reliance in this regard may also be placed on the judgments rendered by the Hon'ble Apex Court in ***Shubhas Jain v. Rajeshwari Shivam***, 2021 SCC OnLine SC 562; ***Union of India v. Puna Hinda***, (2021) 10 SCC 690; and ***Sanchalakshri v. Vijayakumar Raghuvirprasad Mehta and another***, 1999(1) SCT 88 (SC) : JT 1998(8) SC 55.



15. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***St. Mary's Education Society and another vs. Rajendra Prasad Bhargava and others (2023) 4 SCC 498*** opined that while a writ petition under Article 226 of the Constitution is maintainable against an individual or a body performing public functions, it is also pertinent that the specific act challenged by means of the writ petition has a direct nexus with discharge of the said public duty. It was further observed that unless the employment is governed by statutory rules, the relationship between a private unaided school and its employees cannot be deemed to have a public nature. Speaking through Justice J.B. Pardiwala, the following was opined:

“68. We may sum up our final conclusions as under:-

(a) An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions. The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.

(b) Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty. It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for

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a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.

(c) It must be consequently held that while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a Constitutional Court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions. An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.

(d) Even if it be perceived that imparting education by private unaided the school is a public duty within the expanded

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expression of the term, an employee of a nonteaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and nonteaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of nonteaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.

(e) From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character."

(emphasis added)

16. Subsequently, a two-Judge Bench of the Hon'ble Supreme Court in ***Army Welfare Education Society, New Delhi vs. Sunil Kumar Sharma and others***, 2024 SCC OnLine 1683, further illuminated that the relationship between a private educational institution and its employees possesses a contractual nature, lacking a public law element. As such, issues pertaining to service would not be amenable to writ jurisdiction under

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Article 226 of the Constitution of India. Speaking through Justice J.B. Pardiwala, the following was held:

“42. In view of the aforesaid, nothing more is required to be discussed in the present appeals. We are of the view that the High Court committed an egregious error in entertaining the writ petition filed by the respondents herein holding that the appellant society is a “State” within Article 12 of the Constitution. Undoubtedly, the school run by the Appellant Society imparts education. Imparting education involves public duty and therefore public law element could also be said to be involved. However, the relationship between the respondents herein and the appellant society is that of an employee and a private employer arising out of a private contract. If there is a breach of a covenant of a private contract, the same does not touch any public law element. The school cannot be said to be discharging any public duty in connection with the employment of the respondents.”

(emphasis added)

17. In view of the aforesaid legal position, it is trite that a writ petition under Article 226 of the Constitution of India is not an appropriate remedy for resolving disputed questions of fact. This Court cannot transform itself into a Court of first instance for recording evidence, appreciating documents or adjudicating intricate factual disputes relating to alleged appointment, resignation, completion of probation or withholding of salary.

18. In the present case, the petitioner has failed to establish that respondent No.4-Society is an instrumentality of the State or that the service

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conditions of the petitioner are governed by any statutory rules. The dispute, therefore, is essentially in the nature of a private service dispute involving disputed questions of fact.

19. Accordingly, finding no merit in the present writ petition, the same is dismissed. However, the petitioner shall be at liberty to avail any alternative remedy as may be available to him in accordance with law.

20. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

29.05.2026*P.C*

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