

(2017) 01 DEL CK 0417

In the Delhi High Court

Case No : 811 of 2017

ARSHPREET KAUR

APPELLANT

Vs

GURU TEG BAHADUR POLYTECHNIC INSTITUTE AND ORS.

RESPONDENT

Date of Decision : 30-01-2017

Acts Referred:

[Constitution of India](#), [Article 226](#) -
Power of High Courts to Issue certain writs

Citation : (2017) 01 DEL CK 0417

Hon'ble Judges : Valmiki J.Mehta

Bench : SINGLE BENCH

Advocate : Saurabh Chadda, Jasmeet Singh, Anil Soni, Ankur Chhibber

Judgement

1. This writ petition under Article 226 of the Constitution of India is filed seeking the relief of quashing of order of termination of services dated 13.1.2017 passed by the respondent no.1/employer against the petitioner. Respondent no.1 is admittedly managed by the Delhi Sikh Gurdwara Management Committee and with respect to maintainability of petitions against the educational institutions run by the Delhi Sikh Gurdwara Management Committee, various judgments have been passed by different learned Single Judges of this Court and recently on 27.1.2017 in W.P.(C) No.745/2017, I have passed the following order:- "1. This writ petition is filed under Article 226 of the Constitution of India by the petitioners seeking reliefs of setting aside of the termination letters issued by the respondent no.1/Guru Tegh Bahadur Polytechnic Institute/employer terminating the services of the petitioner.

2. Respondent no.2 is constituted because of the Delhi Sikh Gurudwara Act, 1971. Respondent no.2 performs its functions under the Delhi Sikh Gurudwara Act for running educational institutions and the employees of the educational institutions are therefore employees of the respondent no.2 and the respondent no.1 is functioning under the Delhi Sikh Gurudwara Act.

3. Section 32 of the Delhi Sikh Gurudwara Act provides for a designated forum

being a court of the District Judge to decide disputes inter se the employees and the educational institutes run by the respondent no.2/ Delhi Sikh Gurudwara Management Committee. Section 32 of the Delhi Sikh Gurudwara Act reads as under:-

"32. Jurisdiction of District Court in other matters- The Court of the District Judge in Delhi shall also have jurisdiction in respect of the following matters, namely:-

(c) Petitions regarding complaints, irregularities, breach of trust, mismanagement in any Gurdwara, educational or other institutions against any member, office-bearer or officer or other employee of the Committee.

(d) Petitions arising out of any type of disputes between the Committee and its employees including past employees. (e) Applications regarding failure of publication of, or nonimplementation or non-clearance of the objections raised in, any annual report of the auditors of the Committee."

4. The disputes which are subject matter of the present writ petition would be governed by sub-section (d) of the Section 32 and therefore, the petitioner will have to approach the designated court.

5. On the aspect of maintainability of the writ petition various judgments have been passed by learned Single Judges of this Court including Hon'ble Mr. Justice Rajiv Sahai Endlaw and one such judgment is the judgment in the case of Satpal Singh Vs. Delhi Sikh Gurudwara Management Committee & Anr. 181 (2011) DLT 455. In this judgment Hon'ble Judge by referring to Section 32 of the Delhi Sikh Gurudwara Act has held the writ petition not to be maintainable when the disputes are those covered under Section 32(d).

6. It is therefore clear that petitioners have approached the Court although there is an alternative efficacious remedy of approaching the concerned District Judge before whom all the issues which are raised in the writ petition can be heard and decided. I have failed to understand as to why litigants and counsels without even reading basic aspects of law, and the repeated judgments passed by this Court, should at all file non-maintainable petitions in this Court. It is high time that the litigants and lawyers are well advised to at least read the basic law before approaching courts of law.

7. In view of the fact that there is an alternative efficacious remedy, it is held that this writ petition is not maintainable, and thus this Court refuses to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

8. Dismissed."

2. Even a Division Bench of this Court on 2.8.2011 in LPA No.619/2011 titled as Satpal Singh Vs. DSGMC and Anr. has held the same view with respect to writ petitions being not entertained in view of provisions of Delhi Sikh Gurudwara Act, 1971 (hereinafter referred to as "the Act") and this order of the Division Bench dated 2.8.2011 reads as under:- "Being dissatisfied with the order dated 4th

July, 2011 passed by the learned Single Judge in WP (C) No. 236/2010, the present intra-Court appeal has been preferred under Clause X of the Letters Patent. The appellant, an employee of the first respondent, namely, Delhi Sikh Gurudwara Managing Committee invoked the jurisdiction of this Court for quashment of the order of relieving him without giving a firm posting. The learned Single Judge has stated that there is dispute between the Committee and the employees. He has referred to Sections 32 and 33 of Delhi Sikh Gurudwaras Act, 1971. The said provisions read as under: - "32. The Court of the District Judge in Delhi shall also have jurisdiction in respect of the following matters, namely: - (c) Petitions regarding complaints, irregularities, breach of trust, mismanagement in any Gurudwara, educational or other institutions against any member, office-bearer or officer or other employee of the Committee. (d) Petitions arising out of any type of disputes between the Committee and its employees including past employees. (e) Applications regarding failure of publication of, or nonimplementation or non-clearance of the objections raised in, any annual report of the auditors of the Committee.

33. (1) Any person aggrieved by an order passed by the District Judge may, within sixty days of the order, prefer an appeal to the High Court at Delhi and the orders of the High Court on such appeal shall be final and conclusive. (2) The provisions of Section 5 and 12 of the Limitation Act, 1963, shall, so far as may be, apply to appeals under this Section."

On a perusal of Section 32(d), it is quite vivid that any dispute between the Committee and the employee including past employees can be adjudicated by the District Judge, Delhi. In view of the aforesaid alternative remedy, he has declined to interfere. In our considered opinion, when the District Judge has been conferred the jurisdiction, it is not only an alternative but an efficacious remedy because it is a statutory authority, which can enter into factual disputes, whereas while exercising the power of judicial review under Article 226 of the Constitution of India, there would be a different approach.

In view of the aforesaid, we are not inclined to differ with the view expressed by the learned Single Judge and, accordingly, the appeal, being devoid of merit, stands dismissed in limine. In case, the matter travels to the learned District Judge, she should see that the controversy is put to rest at the earliest. Order dasti under the signature of the Court Master."

3. Learned counsel for the petitioner relies upon the judgment of the Supreme Court in the case of *Satwati Deswal Vs. State of Haryana and Ors.* (2010) 1 SCC 126 to argue that a writ petition is entertained in spite of existence of an alternative efficacious remedy once the principles of natural justice are violated, however, each case as regards existence of alternative efficacious remedy depends upon facts of its case and no doubt writ petitions are maintainable once there is violation of principles of natural justice, however, I fail to see as to why once there is a designated court like in the present case of the District Judge under Section 32(d) of the Act, and which court is barely 400/500 meters away

from this Court, that counsels and parties must insist that writ jurisdiction must be invoked although identical reliefs and prayers can be granted by the designated court of the District Judge and which is a completely efficacious alternative remedy.

4. The facts in the case of Satwati Deswal (*supra*) were not under the Act and the said judgment only laid down a general proposition of law and considering the issue of existence of alternative remedy in the present case and which is a completely alternative efficacious remedy, even in terms of the distance with the alternative forum which has to be approached, hence, in view of the consistent judgments of this Court, this Court refuses to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India.

5. Dismissed.