

(2009) 11 SHI CK 0040
In the High Court Of Himachal Pradesh

Rashtriya Sanskrit Sansthan

APPELLANT

Vs

Pitamber Dass and Others
 Anita Bhargav and Hari
Dutt Gawadi Vs Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-11-2009

Acts Referred:

Administrative Tribunals Act, 1985 — Section 14(2)

Citation : (2009) 11 SHI CK 0040

Hon'ble Judges : V.K. Ahuja, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J.—These LPAs are being disposed of by a common judgment since an identical question of law is involved in all the appeals. Briefly stated the facts of the case are that two writ petitions i.e. CWP No. 406 of 2001 filed by Anita Bhargava and CWP No. 407 of 2001 filed by Hari Dutt Gawadi were disposed of by a learned Single Judge of this Court on 11.12.2003 and it was held as follows:

Looking to the over all facts and circumstances of this case and without going into anything else, it is felt that interest of the petitioner will be well served to close this matter keeping in view the just stand taken by respondent No. 6, as noted hereinabove. The proceedings in this case stand closed, of course subject to what has been said hereinabove.

2. Thereafter, review petitions were filed by one Pitamber Dass, who alleged that this Court had no jurisdiction to entertain the writ petitions. The learned Single Judge allowed the review petitions and held that the Himachal Adarsh Sanskrit Mahavidyalaya, Jangla is a Society under the administrative control of the Central Government and, therefore, it is only the Central Administrative Tribunal, which had the jurisdiction to hear the matter. Accordingly, the learned Single Judge allowed the review petitions on 21st July, 2004 and on the same date ordered that the writ petitions are not maintainable in view of his findings that the

Himachal Adarsh Sanskrit Mahavidyalaya, Jangla is a Society under the control of the Central Government.

3. The only question which arises in these appeals is whether the writ petitions were maintainable before this Court or not. Section 14(2) of the Administrative Tribunals Act, 1985 reads as follows:

14(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of Sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations or societies owned and controlled by Government, not being a local or other authority or corporation or society controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of or different categories under any class of, local or other authorities or corporations or societies.

4. In cases of authorities under the control of the Government of India and in cases of Corporations owned and controlled by the Government of India, it is necessary that the Central Government must issue a notification in terms of Section 14(2) before the service matters relating to the employees of such authority, corporation or body fall within the purview of Administrative Tribunals Act. It is admitted by the parties that as far as the Himachal Adarsh Sanskrit Mahavidyalaya is concerned, no notification has ever been issued by the Central Government. Therefore, the service matters of the employees of the said Society could have been agitated by filing writ petitions in this regard and the judgment of the learned Single Judge holding that the writ petitions were not maintainable is incorrect and accordingly set aside.}

5. The further question which arises is whether we should remand the matter back to the learned Single Judge or dispose it of in terms of the original order passed. The writ petitions were disposed of by a reasoned order. None of the parties to the writ petition filed any appeal or review petition against the said order. Pitamber Dass, who was not a party to the writ petition, filed a review petition. This review petition was allowed solely on the ground that the court had no jurisdiction and not on any other ground.

6. In this view of the matter, we feel that there is no point in remanding the matter to the learned Single Judge. The appeals are accordingly allowed and the original order of the learned Single Judge, dated 11.12.2003, shall govern the writ petitions. All the appeals are disposed of accordingly, so also the pending application(s), if any.