

(2024) 05 SHI CK 0106

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1007, 4365 Of 2024

Sunil Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh And Ors

RESPONDENT

Date of Decision : 31-05-2024

Acts Referred:

Citation : (2024) 05 SHI CK 0106

Hon'ble Judges : M.S. Ramachandra Rao, CJ; Satyen Vaidya, J

Bench : Division Bench

Advocate : Neel Kamal Sharma, Anup Rattan, Pranay Pratap Singh, Sidharth Jalta, Arsh Rattan Priyanka Chauhan

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. Heard.
2. Both these petitions involve common question of facts and law, hence are being decided by a common judgment.
3. Shri. Sarswati Sanskrit College, Dangar, District Bilaspur, H.P (for short 'Sanskrit College') was ordered to be taken over by State Government, vide notification dated 17.06.2021 and was renamed as Government Sanskrit College, Dangar, District Bilaspur, H.P. The Principal, Government Degree College, Ghumarwin, District Bilaspur, H.P., was ordered to hold additional charge of the post of Principal of Government Sanskrit College, Dangar, District Bilaspur, H.P.
4. Petitioners were serving the Sanskrit College as Teaching and Non-Teaching Staff, respectively, at the time of issuance of notification dated 17.06.2021. Though, the Sanskrit College was taken over but the services of the petitioners were left in limbo.
5. Petitioner in CWP No. 1007 of 2023 approached this Court seeking direction against the respondents to take over his services w.e.f. 17.06.2021 with all

consequential benefits and also to pay him the unpaid salary for the period w.e.f. 17.06.2021. During the pendency of CWP No. 1007 of 2023, the State Government, vide notification dated 28.06.2023 withdrew its earlier notification dated 17.06.2021, whereby the Sanskrit College was ordered to be taken over. This made the petitioners in CWP No. 4365 of 2023 to approach this Court for following reliefs:-

i) That a writ in the nature of certiorari may kindly be issued and the impugned notification dated 28.06.2023 as contained in Annexure P-14 may kindly be quashed and set aside.

ii) That after quashing the notification dated 28.06.2023 (Annexure P-14), the respondents may kindly be directed to take over the services of the petitioners with all consequential benefits which also includes monetary benefits on account of arrears of salaries.

iii) That the respondents may kindly be directed to release the salary to the present petitioners w.e.f. 17.06.2021 till date.

6. On 20.03.2024, the Secretary (Education) to the Government of H.P., informed the office of learned Advocate General that the State Government had withdrawn notification dated 28.06.2023 with immediate effect in public interest. Therefore, the decision of the Government to take over the Sanskrit College, vide notification dated 17.06.2021, has automatically revived and the Sanskrit College stands taken over by the State Government from aforesaid date.

7. The State Government has issued a notification dated 25.08.1994, whereby the terms and conditions for taking over privately managed colleges in the Pradesh (affiliated) including Teaching and Non-Teaching Staff have been framed. Clause-7 of aforesaid terms and conditions reads as under:-

"(7) The services of only qualified teaching and non-teaching staff appointed one year earlier who fulfil, prescribed departmental recruitment and promotion rule conditions, prevalent at the time of taking over will be considered for taking over subject to the approval of the State Public Service Commission or Departmental Screening Committee from the date of taking over. The services of the Principal will be taken over only as Senior most Lecturer of the College concerned subject to the above mentioned proviso. The Government scales in respect of the respective categories shall be permissible to them after the take over."

8. In CWP No. 1007 of 2023, petitioner has filed CMP No. 7348 of 2024 and has placed on record a copy of communication dated 07.11.2022 from Principal, Government Sanskrit College, Dangar, to Director of Higher Education, H.P. No rebuttal was sought to be placed on record by the respondents/State to the aforesaid communication dated 07.11.2022 from Principal, Government Sanskrit College Dangar, to the Director of Higher Education.

9. It is evidently clear from the aforesaid correspondence dated 07.11.2022 that all the petitioners had been working with the Sanskrit College for more than one

year before the issuance of notification dated 17.06.2021 whereby the said college has been taken over by the State. In addition, it is also clear from the said communication that all the petitioners continued to serve the college even after it was taken over w.e.f. 17.06.2021.

10. Respondents in their reply filed in both the petitions have taken common grounds viz. the revocation of notification dated 17.06.2021 and the ineligibility of petitioners for the purposes of taking over of their services.

11. As regards, the revocation of notification dated 17.06.2021 is concerned, the same pales into insignificance now on account of the latest decision of the State Government dated 20.03.2024 to withdraw the revocation notification dated 28.06.2023. Thus, it cannot be disputed now that the Sanskrit College stands taken over by the State Government w.e.f 17.06.2021.

12. The State Government, vide Clause -7 of notification dated 25.08.1994, has taken decision to take over the services of Teaching and Non-Teaching Staff of taken over Institutions, subject to fulfilment of certain conditions. In the case of petitioners, admittedly, respondents have not undertaken any exercise to consider the taking over of the services of the petitioners despite the fact that they have been allowed to continue serving Government Sanskrit College, Dangar, even after 17.06.2021. In absence of such exercise, it does not lies in the mouth of respondents to raise objections as to the eligibility of the petitioners.

13. In light of above discussion, these petitions are allowed by directing respondents to undertake an exercise to consider the taking over of services of the petitioners w.e.f. 17.06.2021 strictly in terms of the Clause-7 of the notification dated 25.08.1994 as amended/modified from time to time within a period of four weeks, from the date of the production of this order. It is further directed that for those of the petitioners who qualify the conditions as per Clause-7 of notification dated 25.08.1994, necessary orders for taking over their services w.e.f. 17.06.2021 shall immediately be issued and the unpaid salaries alongwith other service benefits shall also be granted to them within four weeks thereafter.

14. Accordingly, these petitions are disposed of, so also the pending miscellaneous application(s), if any.