



IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

COPC No. 7/2023
Decided on: 10.05.2023

Rajinder SinghPetitioner
Versus
Vijay Kumar & Ors.Respondents

Coram
Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Parkash Sharma, Advocate.

For the respondents: Mr. Y.P.S. Dhaulta, Additional
Advocate General.

Jyotsna Rewal Dua , J

The petitioner has alleged violation of judgment dated 30.10.2021 passed in CWPOA No.4769/2019 (**Rajinder Singh Vs. State of H.P. & Ors.**). The operative part of the judgment reads as under:-

"12. Otherwise also, from the inquiry report Annexure P-10 (Colly.), it is only absence of the writpetitioner from duty on 08.06.2009 is proved and nothing beyond that. It is not proved nor Inquiry Officer concluded that the services of Shri Inder Singh were hired by the writ-petitioner to teach the students in his place on payment basis. Shri Inder Singh as per report rather was teaching the students in the school regularly for two hours w.e.f. September, 2008. The certificates Annexures A-2 and A-3 to the present appeal make it crystal clear that said Shri Inder Singh was working as an "Education Volunteer" in the village. He while appearing as PW-21 during the course of trial of Corruption Case No. 63-CC/7 of 2011, tells us that when Kumari Phulma, an Education Volunteer

¹ Whether reporters of the local papers may be allowed to see the judgment?

appointed in Government Primary School, Kuraya left the school, it is he who started imparting education to the students under an NGO, namely 'Adhaar'. Thus, the services of Inder Singh were not hired by the petitioner to teach the students in his place and rather he was teaching the students in the school being "volunteer" of an NGO. The observations in the impugned judgment that said Shri Inder Singh during the course of disciplinary inquiry and trial supported the petitioner, seem to be factually incorrect.

13. The writ-petitioner, no doubt, was found absent from duties on 08.06.2009. The OPD ticket of Community Health Centre, Shillai Annexure P-4, however, reveals that his daughter was ill and medically checked up on that day. The writ-petitioner can reasonably be believed to have accompanied his daughter to the hospital. Although, the application he allegedly sent to the school for sanction of one day's leave has not been produced on record and Shri Netar Singh, JBT, Incharge of the school during the course of disciplinary proceedings has stated that the writ-petitioner was not on duty on that day, however, for his absence that too only for a day, such a harsh and deterrent penalty should have been imposed is a question which heavily weigh with us. The alleged misconduct was not of such a nature warranting the punishment of cancellation of the agreement and ultimately removal from service. When the charge that the writpetitioner was not attending the school and rather hired the services of Shri Inder Singh to teach the students in his place is not at all proved, a lenient view of the matter could have also been taken."

2. During the course of hearing today, learned Additional Advocate General has placed on record a copy of instructions memo dated 09.05.2023 addressed to the office of learned Advocate General by respondent No.1. The instructions are to the effect that the judgment in question has been complied with and the

respondents have issued speaking order on 03.05.2023. Copy of the said speaking order has also been appended with the instructions.

3. Learned counsel for the petitioner does not dispute the above facts and submitted that this contempt petition may be closed in view of order dated 3.5.2023, however, liberty be reserved to the petitioner to seek appropriate remedy in accordance with law, in case, he still feels aggrieved.

Taking into consideration the office order dated 3.5.2023, this contempt petition is closed. Notices issued to the respondents are discharged. However, it is open for the petitioner to avail appropriate remedy, in accordance with, against the aforesaid consideration order, if need so arises.

Jyotsna Rewal Dua
Judge

10th May 2023
rohit