

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 8693/2022

Sumit Sharma S/o Shri Badri Prasad Sharma & Ors.

----Petitioners

Versus

The All India Council For Technical Education & Ors.

----Respondents

For Petitioner(s) : Mr. Devkrishna Purohit
For Respondent(s) : Mr. Hari Kishan Saini, Dy.G.C.

HON'BLE MR. JUSTICE INDERJEET SINGH

Order

19/07/2022

Heard counsel for the parties on stay application and perused the record.

Counsel for the petitioners submits that the Principal is not authorized to terminate the services of the petitioners, as the semester is still going on, however, the respondents have terminated the services of the petitioners. Counsel further submits that in list sent to the AICTE, the respondents have shown that the petitioners are full time contract employee.

In support of his contention, counsel relied upon the judgment passed by the Hon'ble Supreme Court in the matter of Hargurpratap Singh Vs. State of Punjab and Ors., reported in (2007) 13 SCC 292 and another judgment in the matter of Desh Raj Raman & Anr. Vs. The State of Bihar & Ors. (Civil Appeal No(s).2831-2832 of 2022) decided on 04.04.2022.

Counsel for the respondents has opposed the stay application and relied upon the judgment passed by the Hon'ble Supreme in

the matter of **State of U.P. & Ors. Vs. Ram Sukhi Devi** reported in **(2005) 9 SCC 733** wherein Para-8 it has been held as under;

“8. To say the least, approach of the learned Single Judge and the Division Bench is judicially unsustainable and indefensible. The final relief sought for in the writ petition has been granted as an interim measure. There was no reason indicated by learned Single Judge as to why the government order dated 26-10-1998 was to be ignored. Whether the writ petitioner was entitled to any relief in the writ petition has to be adjudicated at the time of final disposal of the writ petition. This Court has on numerous occasions observed that the final relief sought for should not be granted at an interim stage. The position is worsened if the interim direction has been passed with stipulation that the applicable government order has to be ignored. Time and again this Court has deprecated the practice of granting interim orders which practically give the principal relief sought in the petition for no better reason than that of a prima facie case having been made out, without being concerned about the balance of convenience, the public interest and a host of other considerations. [See *CCE v. Dunlop India Ltd.* [(1985) 1 SCC 260 : 1985 SCC (Tax) 75] (SCC at p. 265), *State of Rajasthan v. Swaika Properties* [(1985) 3 SCC 217] (SCC at p. 224), *State of U.P. v. Visheshwar* [1995 Supp (3) SCC 590 : 1995 SCC (L&S) 1423 : (1995) 31 ATC 511] , *Bharatbhushan Sonaji Kshirsagar (Dr.) v. Abdul Khalik Mohd. Musa* [1995 Supp (2) SCC 593] , *Shiv Shankar v. Board of Directors, U.P. SRTC* [1995 Supp (2) SCC 726 : 1995 SCC (L&S) 1018 : (1995) 30 ATC 317] and *Commr./Secy. to Govt. Health and Medical Education Deptt. Civil Sectt. v. Dr. Ashok Kumar Kohli* [1995 Supp (4) SCC 214] .] No basis has been indicated as to why learned Single Judge thought the course as directed was necessary to be adopted. Even it was not indicated that a prima facie case was made out though as noted above, that itself is not sufficient. We, therefore, set aside the order passed by learned Single Judge as affirmed by the Division Bench and without expressing any opinion on the merits of the case we have interfered primarily on the ground that the final relief has been granted at an interim stage without justifiable reasons. Since the controversy lies within a very narrow compass, we request the High Court to dispose of the matter as early as practicable, preferably within six months from the date of receipt of this judgment.”

Counsel further relied on the judgment passed by the Division Bench of this Court in the matter of **Suresh Sharma & Ors. Vs. Dhanwanti Sharma** reported in **D.B. Special Appeal Writ No. 548/2022 in S.B. Civil Writ Petition No. 6089/2019** decided on 07.05.2022 wherein Para Nos. 6 & 8 it has been held as under;

“6. In this connection, we may appropriately refer to the decision of the Supreme Court in *Bharat Sanchar Nigam Ltd. and Ors. Vs. Prem Chand Premi and Anr.* reported in (2005) 13 SCC 505. In the said decision it was held by the Supreme Court that the High Court should not have granted the ultimate relief at the interim stage as the issue seems to be a highly debatable one. In *State of U.P. and Ors. Vs. Ram Sukhi Devi* reported as (2005) 9 SCC 733, the Supreme Court again had an occasion to deal with a similar issue as to whether the Court should grant almost the final relief by way of interim measure. In that connection, in paragraph 8 of the said judgment, the Supreme Court held as follows:

“...Time and again this Court has deprecated the practice of granting interim orders which practically give the principal relief sought in the petition for no better reason than that of a prima facie case having been made out, without being concerned about the balance of convenience, the public interest and a host of other considerations. [See *CCE v. Dunlop India Ltd.* (1985) 1 SCC 260, *State of Rajasthan v. Swaika Properties* (1985) 3 SCC 217, *State of U.P. v. Visheshwar* (1995) Supp (3) SCC 590, *Bharatbhushan Sonaji Kshirsagar (Dr.) v. Abdul Khalik Mohd. Musa* (1995 Supp (2) SCC 593), *Shiv Shankar v. Board of Directors, U.P.SRTC* (1995 Supp (2) SCC 726) and *Commr/Secy to Govt. Health and Medical Education Deptt. Civil Sectt. v. Dr. Ashok Kumar Kohli* (1995 Supp (4) SCC 214)]. No basis has been indicated as to why learned Single Judge thought the course as directed was necessary to be adopted. Even it was not indicated that a prima facie case was made out though as noted above, that itself is not

sufficient. We, therefore, set aside the order passed by learned Single Judge as affirmed by the Division Bench and without expressing any opinion on the merits of the case we have interfered primarily on the ground that the final relief has been granted at an interim stage without justifiable reasons..."

8. Having considered the ratio of the aforesaid decisions of the Hon'ble Supreme Court, we hold that final relief granted to the respondent by way of an interim order dated 08.03.2019 cannot be granted, inasmuch as if such prayer is granted, the same would amount to grant of final relief in the form of an interim relief, which cannot be granted as settled by the Hon'ble Supreme Court."

This stay application filed on behalf of the petitioners deserves to be dismissed; for the reasons, firstly, grant of interim relief with regard to continuation of the services of the petitioners amounts to granting the final relief, which in my considered view, cannot be allowed in view of the judgment passed by the Hon'ble Supreme Court in the matter of **State of U.P. (supra)** and by the Division Bench of this Court in the matter of **Suresh Sharma (supra)**, secondly, the petitioners have failed to place on record their appointment orders, therefore, without considering the terms and conditions of the appointment orders of the petitioners, the interim order cannot be passed by the Court.

Hence, the stay application stands dismissed.

List this writ petition for admission on 30.08.2022.

(INDERJEET SINGH),J