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High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 7193 of 2010 (O and M)

Northern Regional Committee		APPELLANT
	Vs	
R.K. S.D. College of Education and Others		RESPONDENT

Date of Decision: Nov. 2, 2010

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

L.N. Mittal, J.
Defendant No. 1-Northern Regional Committee, National Council for Teacher Education has invoked the jurisdiction of this Court under Article 227 of the Constitution of India to impugn order dated 10.09.2010 Annexure P-11 passed by learned Civil Judge (Junior Division), Kaithal thereby appointing Local Commission consisting of two Commissioners for inspecting the college being run by Plaintiff-Respondent Nos. 1 and 2 and to report about the infrastructure available in the college for running Bachelor of Education Course. The Commissioners have been authorized to conduct videography and photography, if required. Assistance of draftsman may also be taken, if required.

2. Plaintiffs were running B. Ed. College with intake of 200 students, but on the basis of report of visiting team which inspected the college of Plaintiffs on 20.09.2009, Defendant No. 1 de-recognised the college on the ground of lack of infrastructure. On appeal preferred by the plaintiff, defendant No. 2-National Council for Teacher Education, New Delhi allowed appeal partly permitting intake of 100 students instead of 200 students. The plaintiffs have filed suit for mandatory injunction claiming various reliefs including intake of 200 students. Plaintiffs moved application for appointment of Local Commissioner to

report about the infrastructure available in the college of the plaintiffs. The said application has been allowed by the trail Court by impugned order

3. I have heard learned Counsel for the petitioner and perused the case file.

4. Learned Counsel for the petitioner contended that the Local Commissioners appointed by the trial Court include an Advocate and a member of the visiting team out of the list submitted by defendant No. 1, but the Advocate has no expertise to report about the infrastructure requirement for running the B. Ed. College and it is the prerogative of defendant No. 1 to appoint visiting team to report about the infrastructure available.

5. I have carefully considered the aforesaid contention, but find no merit therein. Admittedly there is dispute between the parties regarding the sufficiency of the infrastructure available with the college of the plaintiffs. In view thereof, it is imperative to obtain report of the infrastructure available in the college of the plaintiffs. Local Commissioners have, therefore, been rightly appointed by the trial Court to report about the availability of the said infrastructure. An Advocate may not be in expert from the angle of defendant No. 1-petitioner, but an Advocate can certainly report about the availability of the accommodation, land and furniture etc. Moreover, videography and photography have also been permitted. Services of draftsman has also been permitted as per impugned order. In addition to it, the trial Court has taken precaution to include a member from the list of visiting team members, submitted by defendant No. 1 as one of the two Local Commissioners. The said member, as per defendant No. 1-petitioner, is an expert member and, therefore, the Commission can well be executed with aid of the said expert member. Appointment of Local Commissioners would not amount to collecting of evidence on behalf of plaintiffs as sought to be argued by counsel for the petitioner. On the contrary, when the quantum of infrastructure available in the college is in controversy, the only proper method is to appoint Local Commissioner to bring first hand information about the infrastructure availability at the spot.

6. If the petitioner acts arbitrarily, the aggrieved party should have some remedy to assert its claim and since petitioner is asserting that infrastructure is inadequate and insufficient, the plaintiffs were left with no option but to seek appointment of Local Commissioner to report about the available infrastructure.

7. For the reasons aforesaid, I find no illegality or jurisdictional error in the impugned order of the trial Court. The revision petition is completely misconceived and devoid of merit and is accordingly dismissed in limine.