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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ LPA 386/2024 & CM APPL. 3617/2025

KAWALJEET SINGH & ORS. .....Appellants

Through: Mr. Priyam Pandey and Mr. Sachin Shukla, Advs. for A-1 to 9
Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU NANAK INSTITUTE OF MANAGEMENT AND INFORMATION TECHNOLOGY & ORS .....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE
Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

\+ LPA 451/2024

BALBIR SINGH & ORS. .....Appellants

Through: Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU HARGOBIND INSTITUTE OF MANAGEMENT AND INFORMATION TECHNOLOGY & ANR.

.....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE
Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

\+ LPA 448/2024 & CM APPL. 3612/2025

GURINDERPAL SINGH & ORS. .....Appellants

Through: Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU NANAK INSTITUTE OF MANAGEMENT & ORS. .....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE
Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

\+ LPA 450/2024 & CM APPL. 3654/2025

JAGDEEP SINGH .....Appellant

Through: Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU NANAK INSTITUTE OF MANAGEMENT & ORS. .....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE
Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

\+ LPA 452/2024 & CM APPL. 3616/2025

SURINDER SINGH & ORS. .....Appellants

Through: Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU NANAK INSTITUTE OF MANAGEMENT & ORS. .....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE
Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

\+ LPA 454/2024 & CM APPL. 3613/2025

DARSHAN SINGH & ORS. .....Appellants

Through: Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU NANAK INSTITUTE OF MANAGEMENT & ORS. .....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE
Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

\+ LPA 455/2024

BALBIR SINGH & ORS. .....Appellants

Through: Mr. Rajat Aneja, Ms. Alka Dwivedi, Mr. Aditya Sharma and Mr. Abhinav Chauhan, Advs.

versus

GURU HARGOBIND INSTITUTE OF MANAGEMENT AND INFORMATION TECHNOLOGY & ANR. .....Respondents

Through: Mr. Devvrat Yadav and Ms. Sanchari Banerjee, Advs. for AICTE

Mr. Inderbir Singh Alag, Sr. Adv. with Mr. Abinash Mishra and Mr. Gaurav Kr. Pandey, Advs. for R-1 & 2

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% 28.02.2025

C. HARI SHANKAR, J.

LPA 386/2024, LPA 451/2024, LPA 448/2024, LPA 450/2024, LPA 452/2024, LPA 454/2024 & LPA 455/2024

1. These seven Letters Patent Appeals arise out of a judgment dated 15 March 2024 passed by a learned Single Judge of this Court in five writ petitions. Across these five writ petitions, there are basically two categories of disputes which have been raised by the appellants, as the petitioners in the writ petitions, against the respondent-Institute, an Institute run by, and under the aegis of, the Delhi Sikh Gurudwara Management Committee[1]. One pertains to the appellants' right to the benefit of the recommendations of the 6th Central Pay Commission[2]. The second pertains to the legality, or otherwise, of the decision of the respondent to lay off the appellants.

2. The challenge to lay off is contained in WP (C) 3854/2020 and WP (C) 4058/2020 whereas the remaining writ petitions are limited to the claim with respect to the benefit of the 6th CPC recommendations.

[1] DSGMC

3. The petitioners were employees of colleges functioning under the aegis of the DSGMC. Aggrieved that they had not been paid their salaries in accordance with the recommendations of the 6th Central Pay Commission[3], to which they claimed to be entitled, and by the fact that orders of temporary lay-off had been issued against them, the petitioners instituted the writ petitions, from which the present appeals emanate, before a learned Single Judge of this Court. As already noted, the relief against lay-off is restricted to WP (C) 3854/2020 and WP (C) 4058/2020, whereas the remaining writ petitions only seek relief with respect to payment of salaries.

4. The learned Single Judge has held, in the impugned judgment, that, as the appellants have an equally efficacious alternate remedy available to them under Section 32(d)[4] of the Delhi Sikh Gurdwaras Act, 1971[5], the writ petitions did not deserve to be entertained and has, therefore, relegated the appellants to the said remedy.

5. Aggrieved thereby, the appellants are before this Court. We have heard Mr. Aneja, learned Counsel for the appellants and Mr. Alag, learned Senior Counsel for the respondents instructed by Mr.

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[2] "the 6th CPC" hereinafter

[3] "6th CPC" hereinafter

[4] **32. Jurisdiction of District Court in other matters**. – The Court of the District Judge in Delhi shall also have jurisdiction in respect of the following matters, namely:—

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(c) Petitions regarding complaints, irregularities, breach of trust, mismanagement in any Gurdwara, educational or other institutions against any member, office-bearer or officer or other employee of the Committee.

(d) Petitions arising out of any type of disputes between the Committee and its employees including past employees.

(e) Applications regarding failure of publication of, or non-implementation or non-clearance of the objections raised in, any annual report of the auditors of the Committee.

Abinash Mishra, learned Counsel.

6. Mr. Mishra has also advanced independent submissions.

7. Mr. Aneja submits that the learned Single Judge ought to have entertained the writ petitions especially as, during the pendency of the writ petitions, various interim orders restraining the respondents from effecting recoveries from the appellants, directing payment of salaries to the appellants, etc. had been passed. On 29 June 2020, he points out that, in WP (C) 3854/2020 and WP (C) 4058/2020, this Court had also restrained the respondents from taking any coercive action against the petitioners. This restraint was thereafter extended to the other writ petitions as well. In these circumstances, and keeping in mind the fact that the writ petitions had been pending for quite some time, Mr. Aneja submits that the learned Single Judge was not justified in relegating the petitioners to the remedy available under Section 32 (d) of the DSG Act. He also points out that this Court has exercised jurisdiction in similar matters in ***Shambhu Nath v Directorate of Education***[6] and ***Surjit Singh Saini v Guru Teg Bahadur Institute of Technology***[7]**.**

8. Mr. Aneja submits that there was no factual dispute involved in the present case, as would bar entertaining the writ petitions under Article 226 of the Constitution of India. All that was to be decided was the entitlement of the appellants to the benefit of the 6th CPC,

[5] "DSG Act" hereinafter
[6] **2013 SCC OnLine Del 938**
[7] **2013 SCC OnLine Del 2917**

which could easily have been adjudicated in writ proceedings. He has placed reliance on the judgments of the Supreme Court in ***Janet Jeyapaul v SRM University***[8] and ***Whirlpool Corporation v Registrar of Trade Marks***[9]. From ***Whirlpool Corporation***, Mr. Aneja particularly cites para 15, which reads thus:

> "15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

9. Responding to Mr. Aneja's submissions, Mr. Inderbir Singh Alag, learned Senior Counsel for the respondents, submits that no equities can be pleaded by the appellants as, from the very outset – indeed, from the very first order passed in the writ petitions – the respondents had objected to this Court entertaining the writ petitions in view of the availability of an equally efficacious alternate remedy under Section 32 (d) of DSG Act. If, therefore, the appellants persisted in continuing with their writ petitions, they did so at their own peril, shouldering the risk of the petitions being – as they were ultimately were – rejected on the ground of availability of an equally efficacious alternate remedy.

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[8] **(2015) 16 SCC 530**
[9] **(1998) 8 SCC 1**

10. Mr. Alag submits that the dispute raised by the appellants squarely fell within the peripheries of Section 32 (d) read with Section 33 (1)[10] of the DSG Act. The appellants would also be entitled to the benefit of Sections 5 and 12 of the Limitation Act 1963.

Analysis

11. Having heard learned Counsel and perused the record, we find no reason to interfere with the impugned judgment of the learned Single Judge for the following reasons:

(i) Clearly, the *lis* between the appellants and the respondents in the writ petitions, from which these LPAs emanate constituted "disputes" within the meaning of Section 32(d) of the DSG Act. They, therefore, were amenable for agitation before the learned District Judge.

(ii) The submission of Mr. Aneja that the learned Single Judge ought not to have relegated the appellants to their Right of Appeal under Section 32 (d) as the writ petitions had been pending for several years cannot be accepted, for the simple reason that, from the very beginning, the respondents have objected to this Court entertaining the writ petitions on the ground of availability of alternate remedy under Section 32 (d).

[10] **33.** **Appeals**. –
(1) Any person aggrieved by an order passed by the District Judge may, within sixty days of the order, prefer an appeal to the High Court at Delhi and the orders of the High Court on such appeal shall be final and conclusive.

Mr Alag is, therefore, justified in his submission that, if the appellants persisted in prosecuting their writ petitions, they did so under pain of the possibility of relegation, ultimately, to the District Judge, and in conscious awareness thereof.

(iii) Mr. Aneja sought to contend that Section 32 (d) would not be an absolute bar to entertaining a writ petition and that, even if an alternate remedy were available, Article 226 would nonetheless be amenable to invocation in the circumstances envisaged in the judgments of the Supreme Court in ***Whirlpool Corporation v Registrar of Trade Marks, Harbanslal Sahnia v Indian Oil Corporation Ltd***[11] and ***Godrej Sara Lee Ltd v The Excise and Taxation Officer-Cum-Assessing Authority***[12]. The circumstances in which the High Court could overlook the availability of an equally efficacious alternative remedy and entertain the writ petition, as envisaged in these decisions do not, however, apply here. These decisions permit invocation of Article 226 where the order is passed wholly without jurisdiction, or where there is violation of the principles of natural justice, or where the petitions seek enforcement of their fundamental rights. Clearly, a claim to the benefit of the 6th CPC recommendations cannot fall within any of these select categories.

(iv) It might have been possible to argue that the challenge, to the extent it deals with the decision to lay off the appellants,

[11] **(2003) 2 SCC 107**
[12] **2023 SCC OnLine SC 95**

may raise an issue of violation of their fundamental rights, or of the principles of natural justice. Mr. Mishra pointed out, however, that there is no plea of violation of the principles of natural justice taken in any of the petitions challenging the decision to lay off the appellants.

(v) Even while, in certain exceptional circumstances envisaged in ***Whirlpool*** and other such decisions, resort to Article 226 has been permitted, the Supreme Court has, otherwise, been advocating against High Courts exercising writ jurisdiction, where the applicable statute provides for an equally efficacious alternate remedy. The following enunciation of the law, contained in the recent judgment of three Hon'ble Judges of the Supreme Court in ***T.N. Cements Corpn. Ltd. v Micro & Small Enterprises Facilitation Council***[13] and authored by Sanjiv Khanna, CJ, clearly sets out the legal position:

> "14. Following the aforesaid dictum, this Court in ***Harbanslal Sahnia v Indian Oil Corporation***, had taken notice of the fact that the High Court had referred to the arbitration clause which the writ petitioner could take recourse to, to hold that the rule of exclusion of writ jurisdiction is a rule of discretion and not of compulsion. In an appropriate case, in spite of availability of alternative remedy, the writ courts can exercise its jurisdiction at least in three contingencies, as referred to above. In the facts of the said case, this Court interfered observing that there were peculiar circumstances as the dealership had been terminated on an irrelevant and non-existence cause. Therefore, there was no need to drive the parties to initiate arbitration proceedings. Following the judgments in ***Whirlpool Corporation v Registrar of Trade Marks, Mumbai*** and ***Harbanslal Sahnia (supra)***, this Court in ***Radha Krishan Industries v State of Himachal***

[13] **2025 SCC Online SC 127**

Pradesh[14] laid down the following principles:

> "27. The principles of law which emerge are that:
>
> 27.1 The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.
>
> 27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.
>
> 27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.
>
> 27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.
>
> 27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.
>
> 27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ

[14] **(2021) 6 SCC 771**

jurisdiction, such a view would not readily be interfered with."

15. Thus, it would be true to say that the existence of the statutory remedy does not affect the jurisdiction of the High Court to issue a writ. Nevertheless, the writ jurisdiction being discretionary by policy, the writ courts generally insist that the parties adhere to alternative statutory remedies, as this reinforces the rule of law. However, in exceptional cases, writ jurisdiction can still be exercised as a power to access the court for justice and relief. It is in this context, that a Constitution Bench of five Judges way back in 1954 in ***Himmatlal Harilal Mehta v State of Madhya Pradesh***[15] had observed that the principle that the High Court should not issue a prerogative writ when an alternative remedy is available may not apply when the remedy under the statutes is onerous and burdensome in character, such as when the party has to deposit the whole amount of the tax before filing an appeal. An alternative remedy must be equally efficacious and adequate. While examining the scope of the right to file a writ petition when the statute requires a pre-deposit of tax—an obligation argued as imposing an onerous condition on the right to appeal—this Court in ***Shyam Kishore v Municipal Corporation of Delhi***[16] after relying upon several other decisions, observed that the validity of rigid provisions banning entertainment of appeal when taxes are not paid have been upheld so long as the conditions are not so onerous as to amount to unreasonable restriction. In the alternative, the right is almost illusory."

We may note that Mr. Aneja did not seek to contend that the remedy available under Section 32(d) of the DSG Act was not as efficacious as the remedy available under Article 226.

(vi) The DSG Act, moreover, envisages a particular route by which this Court is to be approached. The appellants have to first approach the District Judge under Section 32(e) and, if

[15] **AIR 1954 SC 403**
[16] **(1993) 1 SCC 22**

aggrieved by the decision of the District Judge, the right to appeal to this Court under Section 33 would always be available. Indeed, it might be profitable for the appellants to take this route, as the matter may be decided more expeditiously. Allowing writ petitions to be filed where the remedy under Section 32(d) is available would, therefore, do complete violence to the statutory scheme of Sections 32 and 33 and would, in effect, reduce Section 33(1) to a near redundancy.

(vii) Ultimately, the impugned judgment of the learned Single Judge has been passed is discretionary in nature. Article 226 is not a fundamental right, like Article 32. It does not figure in part III of the Constitution of India. It is a discretionary and extraordinary remedy, which a Court may decline to entertain, if an equally efficacious alternative remedy is available. The decision as to whether to entertain a writ petition, despite the existence of alternative remedy, or to relegate the parties to the available alternative remedy, is essentially within the subjective realm of the concerned judge, or Court. An assessment in that regard by the learned Singe Judge should ordinarily not invite interference in appeal, unless it is found to be wholly arbitrarily or perverse or illegal on the face of it.

12. We are also informed that there are similar petitions of involving termination of employees of the respondent which are pending before the learned District Judge.

13. In view of all the aforesaid facts, we do not deem this to be an appropriate case to interfere with the impugned judgment of the learned Single Judge.

14. However, keeping in mind the fact that these writ petitions were in fact pending before the learned Single Judge for a considerable period of time, we dispense with the requirement of the appellants having to file fresh appeals before learned District Judge. They would be entitled to present these writ petitions along with record of this Court before the concerned District judge who would treat them as appeals and decide them accordingly.

15. We may note that learned Counsel for the respondents has fairly consented to this.

16. We request the learned District Judge to decide the writ petitions filed before this Court, treating them as petitions under Section 32(d) of the DSG Act as expeditiously as possible and preferably within a period of six months from the date when the matters are presented before the learned District Judge.

17. Needless to say, should the appellants remain aggrieved by the decision of the District Judge, their rights to challenge the decision as available in law would stand reserved.

18. These appeals stand disposed of in above terms.

19. We also clarify, if any payments have been made to the appellants by the respondents during the course of the writ proceedings, pursuant to orders passed by this Court, the respondents would not proceed to recover said payments and that aspect would remain subject to outcome of writ petitions before the learned District Judge.

20. For this purpose, the record of the writ petitions in electronic form would be provided to learned Counsel for both sides and appellants would be at liberty to present the said writ petitions before the concerned District Judge who would deal with them appropriately.

21. No costs.

22. Pending applications, if any, stand disposed of.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 28, 2025
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Click here to check corrigendum, if any