

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

S.B. Civil Writ Petition No. 9812/2019

Mrs. Sudha Madan W/o Shri Sushil Kumar Madan, Aged About 49 Years, R/o A-4, Sanjay Nagar, Near Star Public School, In Front Of Railway Station Alwar (Raj.).

----Petitioner

Versus

1. The Chief Of Army Staff, Army Headquarters, South Block, Nirman Bhawan, New Delhi-110011.
2. The Army Core Commander, 1-Core, South Western Command, Military Station, Mathura.
3. The Army Commander, Sought Western Command, Jaipur Military Station, Raj.
4. The Director, South Western Command, Jaipur Military Station, Raj.
5. The Chairman, Hq, 42 Artillery Division, Pin 908442, C/o 56 Apo
6. The Patron, Army Public School, Itarana, Military Station, Alwar.
7. The Vice Principal, Sh. Dushyant Tiwari, Vice Principal, Army Public School, Itarana, Military Station, Alwar.

----Respondents

For Petitioner(s) : Mr.Vigyan Shah

For Respondent(s) : Mr.Anand Sharma with Ms.Ritu Pathak

HON'BLE MR. JUSTICE ASHOK KUMAR GAUR

Order

31/05/2019

The instant writ petition has been filed by the petitioner challenging the order dated 22nd May, 2019 whereby the stay application filed by the petitioner before the Rajasthan Non-government Educational Institutions Tribunal, Jaipur (for short "the Tribunal") has been dismissed.

Learned counsel for the petitioner submitted that the petitioner had challenged the termination order dated 8th April, 2019 whereby her services were not continued and the order was passed in most arbitrary manner.

Learned counsel also submitted that *prima facie* termination of services of the petitioner was not as per the Rules framed by the Army Welfare Education Society.

Learned counsel submitted that the Tribunal could not have rejected the stay application only on the ground that relief, which was sought by the petitioner in the main appeal and the stay application was the same.

Learned counsel further submitted that the Tribunal has not looked into the relevant parameters, which were required to be considered for granting interim relief.

Learned counsel submitted that only on account of observation that there is no *prima facie* case made out, the Tribunal ought to have considered the matter in detail and should have passed a reasoned and speaking order.

Per contra, learned counsel for the caveator-respondents Mr. Anand Sharma submits that the Tribunal has rightly passed the order dated 22nd May, 2019 and the Tribunal has also given reasons of dismissing the stay application of the petitioner.

Learned counsel submitted that the relief, claimed by the petitioner in the main appeal, was also to the extent of setting aside the order dated 8th April, 2019 and if, prayer of the petitioner was to be accepted, the appeal itself would have been rendered infructuous and main relief could not have been granted.

Learned counsel submitted that the Tribunal, by giving specific reasons, has rejected the stay application and no fault can be found therein.

I have considered the submissions made by learned counsel for the parties and perused the record.

This Court has been informed that reply to the main appeal has been filed by the respondents and the petitioner is also free to file rejoinder, if any. The petitioner can make a request before the Tribunal to decide the matter in expeditious manner. The order dated 22nd May, 2019, which has been passed by the Tribunal, does not require any interference by this Court, at this stage. The Tribunal, while considering the nature of the relief, claimed by the petitioner, has come to the conclusion that by way of interim order, reinstatement of the petitioner is not possible and the Tribunal without observing anything on merits of the matter, has only decided the stay application and as such, no fault can be found in the said order.

The present writ petition is accordingly disposed of with liberty to the petitioner to approach the Tribunal for making a request to decide the appeal in expeditious manner and in that case, the Tribunal is directed to decide the appeal in expeditious manner, if the pleadings are complete.

(ASHOK KUMAR GAUR),J