

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 16th day of April, 2010

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

1. ORIGINAL APPLICATION NO. 197/2010

Smt. Anjali Gautam wife of Shri Sunil Kumar, aged about 30 years, by caste Gautam (SC), resident of Jawahar Navodaya Vidyalaya Campus, Village Pallu, District Hanumangarh (Raj.).

.....APPLICANT

(By Advocate: Mr. Aslam Khan)

VERSUS

1. Union of India through Joint Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi.
2. Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, 18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur.
3. Jawahar Navodaya Vidyalaya, Pallu, District Hanumangarh through its Principal.
4. Smt. Susheela Rathore, Principal, Jawahar Navodaya Vidyalaya, Pallu, District Hanumangarh (Rajasthan).

.....RESPONDENTS

(By Advocate: -----)

2 ORIGINAL APPLICATION NO. 198/2010

Shri Sunil Kumar son of Shri J.D. Kaushal, aged about 30 years, by caste Jatav (SC), resident of Jawahar Navodaya Vidyalaya Campus, Village Pallu, District Hanumangarh (Raj.).

.....APPLICANT

(By Advocate: Mr. Aslam Khan)

VERSUS

1. Union of India through Joint Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi.
2. Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, 18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur.

3. Jawahar Navodaya Vidyalaya, Pallu, District Hanumangarh through its Principal.
4. Smt. Susheela Rathore, Principal, Jawahar Navodaya Vidyalaya, Pallu, District Hanumangarh (Rajasthan).

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

By this common order, we propose of dispose of both these OAs as common question of facts & law is involved.

2. The grievance of the applicants in both these OAs is regarding separate order of suspension dated 06.04.2010 (Annexure A/1) thereby changing their headquarters on account of such suspension order. The applicants have also been relieved pursuant to order dated 06.04.2010 (Annexure A/1) vide order (Annexure A/2) on ~~different~~ ^{same} dates. Learned counsel for the applicants has argued that such impugned orders have been passed mala fide.

3. We have heard the learned counsel for the applicants at admission stage. We are of the view the present OA cannot be entertained in view of the decision of the Constitutional Bench in the case of **S.S. Rathore vs. State of M.P.**, AIR 1990 SC 10 whereby the Constitutional Bench has held that the OA cannot be entertained till a person exhaust statutory remedy. As can be seen from Rule 23 of the CCA (CCS) Rules, 1965, appeal lies against the order of suspension made or deemed to have been made under Rule 10 of the said Rule.

4. In view of what has been stated above, we are of the view that the present OAs cannot be entertained until & unless the applicants exhaust statutory remedy by way of appeal. Accordingly, the applicants are directed to file statutory appeal within a period of ten days. In case such an appeal is filed within the aforesaid period, the Appellate Authority shall entertain the same and decide the appeal of the applicants expeditiously and preferably within a period of two months from the date of receipt of the appeal. The Appellate Authority shall also consider the request of the applicants for the change of their headquarters during the period of suspension and pass appropriate order.

5. With these observations, both these OAs are disposed of at admission stage with no order as to costs. Needless to add that in case the applicants are aggrieved by the order to be passed by the Appellate Authority, it will be open for them to file substantive OA for the same cause of action and the same will be considered in accordance with law.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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