

REPORTABLE

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **WP(C).No.8857/2007**

% **Date of Decision : July 28, 2008**

#Dr. Rama Patnayak Petitioner
! Through: Mr. Jayant Nath, Sr. Advocate with
Mr. Jayant Mehta, Advocate.

Versus

The Governing Body Shivaji College
& Ors. Respondents

^ Through: Ms. Manisha with Mr. Amit Bansal
Advocates for Respondent Nos.2,6 &7.
Mr. S.K. Luthra, Advocate for
Respondent No.3
Mr. Prem Mishra with Mr. V.K.Tandon
Advocates for Respondent No.4
Mr. M.A. Niyazi for Respondent
Nos. 5,8 & 9.

AND

WP(C).No.17567/2006

#Dr. Rama Patnayak Petitioner
! Through: Mr. Jayant Nath, Sr. Advocate with
Mr. Jayant Mehta, Advocate.

Versus

The Governing Body Shivaji College
& Ors. Respondents

^ Through: Mr. S.K. Luthra, Advocate for
Respondent No.1
Ms. Manisha with Mr. Amit Bansal
Advocates for Respondent Nos.2 & 3.
Mr. Prem Mishra with Mr. V.K.Tandon
Advocates for Respondent No.4

CORAM:-

*** HON'BLE MR. JUSTICE S.N. AGGARWAL**

1. Whether reporters of Local paper may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the Digest?

S.N. AGGARWAL, J. (Oral)

Both these writ petitions have been taken up for disposal together because the petitioner has made similar prayers in both these writ petitions. The prayers made by the petitioner in these petitions in substance relate to quashing of departmental proceedings initiated against her and to revoke the suspension order passed against her.

2 The petitioner was a Principal in Shivaji College under Delhi University. There were serious allegations against her and the university authorities including the Governing Body of the College wanted to initiate departmental inquiry against her. The Governing Body of Shivaji College vide resolution passed in its meeting held on 25th September, 2006 decided to suspend the petitioner from the post of Principal and to hold an inquiry against her. Before the resolution dated 25th September, 2006 was passed by the Governing Body of Shivaji College, a fact finding inquiry was got conducted against the petitioner which indicted her of the charges for which inquiry was proposed to be held against her. Pursuant to the decision taken by the Governing Body of Shivaji College vide resolution dated 25th September, 2006, the article of charges were served upon the petitioner which are at pages 84-87 of the paper book of the

writ petition being WP(C) No.8857/2007. A perusal of the article of charges served upon the petitioner would show that there were allegations against the petitioner even of financial irregularities besides other accusations made against her. A retired Judge of this court Hon'ble Mr. Justice M.A. Khan has been appointed by the Governing Body on 03rd May, 2007 to hold an inquiry into the charges against the petitioner. During the pendency of the inquiry against the petitioner, the petitioner was suspended from service w.e.f. 25th October, 2006 and she continues to be on suspension till date.

3 After suspension of the petitioner from the post of Principal in Shivaji College, need arose in the College for appointing an officiating principal to look after the day to day responsibilities of the College. The university authorities appointed one Mr. Rajesh Mohan as Officer on Special Duty (OSD) to look after the day to day responsibilities of the College and his continuation on the said post was extended by the Governing Body of the College in its meeting held on 04th April, 2007 and 24th April, 2007. Mr. Rajesh Mohan is continuing in Shivaji College on the post of OSD till date.

4 The petitioner, aggrieved by the decision of the Governing Body taken in its meeting held on 04th April, 2007 and 24th April, 2007, filed a writ petition being WP(C) No.3786/2007 and prayed therein for setting aside of departmental proceedings initiated against her and also for revocation of her suspension order. This writ petition filed by the

petitioner being WP(C) No.3786/2007 was dismissed by this court by a speaking order on 29th May, 2007. The said order dated 29th May, 2007 is at pages 128-131 of the paper book of writ petition being WP(C) No.8557/2007. The operative portion of the order dated 29th May, 2007 in WP(C) No. 3786/2007 is extracted below :-

“In this view of the matter, at the present stage, the Court declines to exercise the discretionary powers vested in it under Article 226 of the Constitution of India to quash the charge-sheet. The appropriate remedy for the petitioner would be to vent her grievances as raised in the present petition, in the enquiry proceeding and await a decision there. The writ petition and pending application are rejected.”

5 It may be seen on a perusal of the order passed by this court in the above referred writ petition that all the contentions raised by the petitioner in these writ petitions have already been considered by the Court. Upon consideration of the contentions urged on behalf of the petitioner, this court held that the departmental proceedings initiated against the petitioner cannot be quashed and that the appropriate remedy for the petitioner would be to vent her grievance after conclusion of the inquiry proceedings.

6 The learned senior counsel appearing on behalf of the petitioner has drawn attention of this court to the subsequent resolutions dated 15th June, 2007 and 1st August, 2007 passed by the Governing Body of Shivaji College which are at pages 132-144 respectively of the paper book of the

writ petition being WP(C) No.8857/2007 and by reference to the same he has contended that the Governing Body of the College has nullified the earlier two resolutions of 04th April, 2007 and 24th April, 2007. This argument advanced on behalf of the petitioner is of no consequence. It may be noted that the Governing Body of the College had reiterated the decision taken in the Resolutions dated 04.04.2007 & 24.04.2007 vide Resolutions dated 08.08.2007 and 05.09.2007 respectively. Furthermore, it may be noted that the Resolutions dated 04.04.2007 & 24.04.2007 have nothing to do with the holding of the departmental inquiry against the petitioner. The decision to hold departmental inquiry into the charges against the petitioner was taken by the Governing Body in its meeting held on 25.09.2007. That decision of the Governing Body has not been assailed in the present writ petition.

7 Mr. Jayant Nath, learned senior counsel appearing on behalf of the petitioner has placed reliance upon a judgment of the Hon'ble Supreme Court in ***Union of India & Anr Vs. Kunisetty Satyanarayan AIR 2007 SC 906*** and has relied upon para 16 of the said judgment which is extracted below:-

“No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily, the High Court should not interfere in such a matter.”

8 The above referred judgment relied upon on behalf of the petitioner does not help the petitioner in any way. What has been held by the Hon'ble Supreme Court in the above referred case is that the Court can quash the charge-sheet or show-cause notice only in very rare and exceptional cases. This court does not find this case to be one of such category where it can be said that the decision to initiate departmental proceedings against the petitioner is vitiated by any *mala-fides* or bias. A perusal of the charge-sheet served upon the petitioner which is at pages 84-87 of the paper book of WP(C) No. 8857/2007 would show that the inquiry is going on against the petitioner into the serious charges including the charges of financial irregularities. This Court vide its order dated 29.05.2007 passed in the writ petition of the petitioner being WP(C) No.3786/2007 has already arrived at a conclusion that the departmental proceedings initiated against her cannot be quashed and the appropriate remedy for the petitioner is to vent her grievance in appropriate proceedings before the competent Court after conclusion of inquiry procedure against her. The inquiry is being held by a retired Judge of this Court and the petitioner should not feel any apprehension or shy away from participating in the inquiry proceedings.

9 This now only leaves the question of suspension of the petitioner to be considered by this Court. Mr. Jayant Nath, learned senior counsel appearing on behalf of the petitioner has contended that the petitioner is facing humiliation on account of her suspension for last about two years

and, therefore, he requests that the respondents may be directed to review their decision for continued suspension of the petitioner. Mr.Luthra, learned counsel appearing on behalf of the Governing Body of the College says that the decision has been taken by the Governing Body to keep the petitioner under suspension till the conclusion of inquiry proceedings so that he may not influence the witnesses or temper with the documents. Be that as it may, the decision to suspend an employee rest with the employer and this Court would not like to interfere in the administrative discretion of the concerned authority in that regard. However, it would be appropriate in case the Governing Body of the College meet again and review its decision for continued suspension of the petitioner within four weeks from today.

10 In view of the above, this Court does not find any merit in either of these petitions, which fail and are hereby dismissed, but with no order as to costs.

11 Needless to say that any observation made in this order shall not influence the merit of the inquiry pending before the Inquiry Officer.

**S.N. AGGARWAL
(JUDGE)**

**July 28, 2008
a/nks**