

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) 1666/2001

Reserved on: September 14, 2011

Decision on: October 3, 2011

MANAGING COMMITTEE

FRANK ANTHONY PUBLIC SCHOOL & ANR. Petitioners

Through: Mr. S.K. Taneja and Mr. J.K. Das, Senior
Advocates with Mr. Avijeet Bhujabal, Mr. Punit Taneja,
Mr. P.P. Nayak and Mr. A.K. Sinha, Advocates.

versus

C.S. CLARKE & ORS.

..... Respondents

Through: Mr. R.K. Saini with Mr. Atul Wadera and
Mr. Sitab Ali Chaudhary, Advocates for R-1
Ms. Avnish Ahlawat, Advocate for DoE.

W.P. (C) 1672/2001

MANAGING COMMITTEE

FRANK ANTHONY PUBLIC SCHOOL & ANR. Petitioners

Through: Mr. S.K. Taneja and Mr. J.K. Das, Senior
Advocates with Mr. Avijeet Bhujabal, Mr. Punit Taneja,
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C.S. CLARKE & ANR.

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Mr. Sitab Ali Chaudhary, Advocates for R-1
Ms. Avnish Ahlawat, Advocate for DoE.

CORAM: JUSTICE S.MURALIDHAR

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| 1. Whether Reporters of local papers may be
allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the judgment should be reported in Digest? | Yes |

JUDGMENT

3.10.2011

1. These two writ petitions by the Managing Committee ('MC') of the Frank Anthony Public School ('School') and its Principal, Petitioner Nos. 1 and 2 respectively, are directed

against the common order dated 22nd June 2000, passed by the Delhi School Tribunal ('Tribunal') allowing the Appeal Nos. 36 and 37 of 1989 filed by Mr. and Mrs. C.S. Clarke respectively holding their dismissal by the School by orders dated 30th July 1989 to be illegal and against the principles of natural justice. While Mr. C.S. Clarke [Respondent No. 1 in W.P. (C) No. 1672 of 2001] was held to be entitled to reinstatement with all consequential benefits, the legal representatives of Mrs. C.S. Clarke [Respondent No. 1 in W.P. (C) No. 1666 of 2001], who expired during the pendency of her appeal in the Tribunal, were held to be entitled to the consequential benefits.

2. While directing notice to issue in the writ petitions on 11th April 2001, this Court recorded the statement of the learned counsel for Respondent No. 1 that no steps would be taken by them to get the impugned order of the Tribunal implemented during the pendency of the writ petitions. Rule was ultimately issued in both writ petitions on 18th February 2003. Mr. C.S. Clarke who had continued occupying the premises within the school campus made a statement on 31st July 2009 that he would vacate the premises within six weeks thereafter.

Background Facts

3. Mrs. C.S. Clarke was appointed as an Assistant Teacher in the School on 7th January 1975 and Mr. C.S. Clarke was appointed as such on 16th May 1975. The School is an unaided minority school recognized as such under the Delhi School Education Act, 1973 ('DSEA'). The employees of an unaided minority school are required to sign a statutory service agreement in terms of Section 15 DSEA which contains terms and conditions and the mode of enforcing the Code of Conduct for the teachers. It is stated that the said contracts are vetted and approved by the Director of Education ('DoE') [Respondent No.2 in both writ petitions] and are registered in the Register of Contracts under Rule 130 of the Delhi School Education Rules, 1973 ('DSER').

4. As part of the terms of the contract, Mr. and Mrs. C.S. Clarke were allotted residential accommodation at a place rented by the School. However, the landlady of the premises instituted eviction proceedings against the School. In terms of an order dated 2nd September 1987 passed by the Rent Controller, the flat had to be vacated by 30th November 1988. By a letter dated 6th September 1988 the Principal of the School, Mr. G.W. Mayer, informed Mr.

and Mrs. Clarke of the above development. Mr. Mayer stated that he was looking for another accommodation for them. In November 1988 after an accommodation was located in Malviya Nagar, Mr. Clarke was asked by the Principal to inspect the flat so that steps to hire it may be taken by the School. However, Mr. Clarke refused to do so. It is stated that in the meanwhile, Mr. Mayer fell ill and had to be hospitalized for about ten days beginning 12th November 1988. On 14th December 1988, Mr. and Mrs. Clarke were evicted from their quarters. The Principal permitted them to use the guest room on the first floor of the building in the School Block and to also store some of their stuff in the basement of the main building. According to the School, it was made clear to Mr. and Mrs. Clarke that this would be a temporary arrangement till such time an alternative rented accommodation was located by the School.

5. According to the School on 15th December 1988, Mr. and Mrs. Clarke came to the Principal's office demanding that they be allotted quarters within the School premises. They demanded that the Principal's new bungalow, which was unoccupied as it was still incomplete, be allotted. They then proceeded to forcibly enter into the said bungalow. The Principal immediately proceeded with them to the bungalow. According to the Principal, at the entrance to the bungalow, Mrs. Clarke used abusive language against the Principal, seized his coat thereby tearing off the buttons, pushed him and threatened to slap him. The Principal made no attempt to retaliate or push her away. He held his hands up so that all could see that he was not touching her. According to the School, while Mrs. Clarke was still attacking the Principal, Mr. Clarke broke the chain on the gate of the bungalow, and entered the ground floor. He then unsuccessfully tried to break open the entrance door of bungalow. In the meanwhile, pupils in some of the nearby classrooms raised an alarm and some senior teachers came out and requested Mrs. Clarke not to create a scene.

6. In the afternoon of 15th December 1988, one of the School Sergeants, Mr. R. Harisson, informed the Principal that Mrs. Clarke had forcibly occupied the room adjacent to the guest room (also referred to as the 'tutorial room') which the Principal had permitted them to use and this occupation of the adjacent room was without the Principal's permission. It is stated that not only they forcibly occupied the said tutorial room but also threw out the furniture which was kept there. On 16th December 1988 the Principal requested Mrs. And Mrs. Clarke to vacate the tutorial room but they refused to do so. On 20th December 1988 a

memorandum was issued to Mr. and Mrs. Clarke about the incident of 15th December 1988. On 22nd December 1988, the Principal informed Mr. and Mrs. Clarke that an alternative rented accommodation had been located for them at Dayanand Colony, Lajpat Nagar. They were given time till 27th December 1988 to move out from the guest room as well as the tutorial room and hand over vacant possession thereof to the Headmaster, as the Principal would be out of station from 23rd December 1988. When the Principal returned on 30th December 1988, the Headmaster informed him that Mrs. Clarke had taken the key of the new flat on 29th December 1988 but had returned it on the pretext that the flat was small. According to the School, however, the new flat was bigger than the previously rented flat. Mr. and Mrs. Clarke sent a reply dated 3rd January 1989 to the memorandum dated 20th December 1988 denying the Principal's version of the incidents of 15th December 1988. On 3rd January 1989, the Principal informed Mr. and Mrs. Clarke that they were given two more days till 5th January 1989 to move out from the guest room and shift to the rented flat and that their refusal to do so would be a continuation of their grave misconduct and criminal trespass.

7. On 14th January 1989 the Board of Governors ('BoG')/MC of the School framed charges against Mr. and Mrs. Clarke for serious misconduct. The articles of charge were that on 15th December 1988, Mr. and Mrs. Clarke had "openly insulted and humiliated the Principal and forcibly entered into the Principal's bungalow" and thereafter forcibly occupied the room adjacent to the guest room and yet refused to accept the accommodation rented out to them. They had, by refusing to vacate the said premises, and occupy the rented premises, continued to commit gross misconduct and criminal trespass. The further charge against Mr. Clarke was that he had not submitted report cards in respect of Class VI (F) of which he was the Class Teacher to the Headmaster for his signature for distribution to the pupils. On 21st December 1988, Mr. Clarke informed the Principal that he was unable to prepare the report cards. This action was stated to be a deliberate attempt to harm the School and its pupils. The BoG appointed Mr. H.N. Kashyap, a former Principal of the Delhi Public School as the Enquiry Officer ('EO').

8. Mr. and Mrs. Clarke in reply to the charge sheet chose to adopt the reply dated 3rd January 1989 already filed by them in response to the memorandum dated 20th December 1988. While witnesses were examined on behalf of the School and cross-examined by Mr.

Clarke, neither he nor Mrs. Clarke chose to examine themselves or any others as their witnesses. At the end of the enquiry Mr. H.N. Kashyap submitted a report holding the charges against Mr. and Mrs. Clarke to be proved. A copy of the enquiry report was furnished to Mr. and Mrs. Clarke by the Vice-Chairman of the MC on 23rd June 1989. A copy of the transcript of the cross-examination of Mr. Mayer, Principal of the School signed by Mr. Kashyap and Mr. Mayer and countersigned by Mr. and Mrs. Clarke in confirmation was also enclosed. Mr. Clarke sent a reply dated 16th July 1989. Thereafter, the BoG/MC met again on 30th July 1989 and passed a resolution removing both Mr. and Mrs. Clarke from service of the School for their grave misconduct. A copy of the resolution was furnished to both of them by a letter dated 31st July 1989.

9. Aggrieved by the order of removal from service, Mr. and Mrs. Clarke filed appeals before the Tribunal. Before the Tribunal it was contended by the Clarkes that no Disciplinary Committee ('DC') in terms of Rule 118 DSER was constituted and that the procedure outlined in Rule 120 DSER was also not followed. Copies of the charge sheet and vital documents were not supplied to the Clarkes to enable them to defend themselves properly. In reply, the School contended that the Tribunal had no jurisdiction to deal with the appeals. Reliance was placed on the judgment of the Supreme Court in *Frank Anthony Public School Employees' Association v. Union of India AIR 1987 SC 311* (hereinafter 'the *Frank Anthony Public School* case'). It was submitted that the special provisions contained in Section 15 DSEA would override the general provisions contained in Section 8(1)(a) DSEA. On merits, it was submitted that the charges were fully proved in a properly held enquiry after following the procedures in conformity with the principles of natural justice.

The Tribunal's order

10. In its impugned order dated 22nd June 2000 the Tribunal discussed in detail the decision of the Supreme Court in the *Frank Anthony Public School* case. The Tribunal noted that Section 12 DSEA was struck down by the Supreme Court insofar as it made Sections 8(1), 8(3), 8(4), 10 and 11 DSEA inapplicable to unaided minority schools. Consequently, the remedy under Section 8(3) DSEA of approaching the Tribunal to challenge an illegal dismissal was held applicable to unaided minority schools. Consequently, the appeals were held to be maintainable before the Tribunal.

11. The Tribunal then proceeded to observe, “and for that purpose, while doing so, the Tribunal has naturally to look into the provisions pertaining to the composition of the disciplinary authority, the penalties and procedure to be adopted for imposing such penalties in respect of the employees. And these provisions are contained in Rules 117 to 120.” It was concluded by the Tribunal that the School authorities ought to have followed the provisions of Rule 118 and Rule 120 DSEA and having failed to do so, they had violated the principles of natural justice. It was further observed that “the enquiry was conducted in a hush-hush manner and that no adequate opportunity for cross-examination of the witnesses was given to the delinquents. Hence, the order of imposition of penalty of dismissal in both the cases are quashed as being illegal.” However, the prayer of the Respondents for proceeding against the School under Section 340 CrPC was declined. As far as Mr. Clarke was concerned, the Tribunal ordered his reinstatement with all consequential benefits. As Mrs. Clarke had expired during the pendency of her appeal, her legal representatives were held entitled to the consequential benefits.

Submissions of counsel

12. Mr. S.K. Taneja and Mr. J.K. Das, learned Senior counsel appearing for the School submitted that the Tribunal erred in construing the ratio of the judgment of the Supreme Court in the ***Frank Anthony Public School*** case. It is submitted that once the Supreme Court categorically held that Section 8(2) DSEA would not apply to an unaided minority school, then the corresponding provisions of the DSER in Chapter VIII thereof could also not apply. Consequently, there was no question of applicability of Rule 118 or Rule 120 DSER to the School. There was a separate Chapter XI of the DSER which dealt with unaided minority schools. The judgment of the Supreme Court in the ***Frank Anthony Public School*** case did not, by any stretch of imagination, hold either Sections 13 to 15 of Chapter V of the DSEA or Rules 127 to 130 of Chapter XI of the DSER to be inapplicable to unaided minority schools. Once it was clear that Rule 118 and Rule 120 DSER did not apply, the judgment of the Tribunal had to be held to be fundamentally flawed and set aside on that ground itself. On merits it was submitted that the proceedings before the EO showed that adequate opportunities had been granted to the Clarkes to defend themselves. However, they declined to lead evidence or to examine themselves. A copy of the enquiry report was furnished to them. Their reply thereto was considered by the MC before imposing the punishment of removal from service. The charges found proved were grave and the

imposition of a major penalty was justified.

13. Mr. R.K. Saini, learned counsel appearing for the Clarkes submitted that the proper way of construing the decision of the Supreme Court in the ***Frank Anthony Public School*** case would be to infer that in view of Section 12 DSEA being struck down, Rule 96(1) DSER also stood impliedly repealed. Even if it was deduced that by virtue of Section 8(2) DSEA not applying to unaided minority schools Rule 118 DSER would not apply, Rule 120 DSER would nevertheless apply. In other words, it is submitted that the entire procedure outlined in Rule 120 DSER short of having to obtain the prior approval of the DoE for imposition of a major penalty would apply even to an unaided minority school. He referred to the judgments of the Supreme Court in ***Behram Khurshid v. State of Bombay AIR 1955 SC 123*** and ***Christian Medical College Hospital Employees' Union v. Christian Medical College Vellore Association AIR 1988 SC 37***. He reiterated that the procedure adopted by the EO in the present case was not in conformity with Rule 120 DSER.

14. Mr. Saini next submitted that the entire proceedings were *mala fide* and vindictive. According to him, Mr. Clarke had been the real spirit behind the judgment of the Supreme Court in the ***Frank Anthony Public School*** case. He was the only Anglo-Indian member of the employees' association and his success in that case was not to the liking of the MC. The compromise entered into by the School with the landlady in respect of the premises rented out for Mr. and Mrs. Clarke was behind the back of Mr. Clarke. All of a sudden on 6th September 1988 a letter was sent by the Principal stating that the accommodation had to be vacated. On 14th December 1988 the bailiff forcibly evicted Mr. and Mrs. Clarke from the rented premises. The events of 15th December 1988 as outlined by the School were totally concocted and distorted. Mrs. Clarke caught hold of the coat collar of the Principal only to support herself from falling down. Thirdly, it is submitted that the entire enquiry proceedings were a sham. The charges were vague. The Principal himself was the Presenting Officer ('PO') in the enquiry and he was also the complainant. Fourthly, and the documents were not supplied till the end of the enquiry. Fourthly, an unusual procedure was adopted whereby of the charged officials were first asked to make their statements; only thereafter were the documents supplied. The statements of the witnesses examined on behalf of the School were not properly recorded in question and answer form. The committing of criminal trespass was not a specific charge against Mr. Clarke and yet he was found guilty of

that charge. The whole enquiry proceedings were conducted in a pre-determined and *mala fide* manner. Additionally, it was contended that the signatures of the charged officials on the proceedings before the EO on 2nd May 1989 were forged. This was reflective of the *mala fide* intentions of the School. Moreover, the proceedings of 3rd May 1989 were in fact signed only on 8th May 1989. Accordingly, it was submitted that no interference is called for with the impugned order of the Tribunal.

The Frank Anthony Public School Case

15. The first issue concerns the understanding of the Tribunal of the ratio of the judgment in the *Frank Anthony Public School* case. The issue before the Supreme Court concerned the demand by the employees of the School that they were entitled to the benefit of Section 10 DSEA which provides that the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognized private school “shall not be less than those of the employees of the corresponding status in school run by the appropriate authority.” Section 10 was made applicable to unaided minority schools by virtue of Section 12 DSEA which stated that nothing contained in this Chapter IV of the DSEA (of which Sections 8 to 11 form part) will apply to an unaided minority school. In para 14 of the judgment in the *Frank Anthony Public School* case, the Supreme Court noticed that “the principal controversy between the parties centered around Section 10.” The ratio of the judgment can be gleaned from paras 20 to 21 which read as under (AIR @ 330):

“20. Thus, Sections 8(1), 8(3), 8(4) and 8(5) do not encroach upon any right of minorities to administer their educational institutions. Section 8(2), however, must, in view of the authorities, be held to interfere with such right and, therefore, inapplicable to minority institutions. Section 9 is again innocuous since Section 14 which applies to unaided minority schools is virtually on the same lines as Section 9. We have already considered Section 11 while dealing with Section 8(3). We must, therefore, hold that Section 12 which makes the provisions of Chapter IV inapplicable to unaided minority schools is discriminatory not only because it makes Section 10 inapplicable to minority institutions, but also because it makes Sections 8(1), 8(3), 8(4), 8(5), 9 and 11 inapplicable to unaided minority institutions. That the Parliament did not understand Sections 8 to 11 as offending the fundamental right guaranteed to the minorities under Article 30(1) is evident from the fact that Chapter IV applies to aided minority institutions and it cannot for a moment be suggested that surrender of the right under Article 30(1) is the price which the aided minority institutions have to pay to obtain aid from the Government.

21. The result of our discussion is that Section 12 of the Delhi School Education Act which makes the provisions of Chapter IV inapplicable to unaided minority institutions is discriminatory and void except to the extent that it makes Section 8(2) inapplicable to unaided minority institutions. We, therefore, grant a declaration to that effect and direct the Union of India and the Delhi Administration and its officers, to enforce the provisions of Chapter IV (except Section 8(2)) in the manner provided in the Chapter in the case of the Frank Anthony School. The management of the school is directed not to give effect to the orders of suspension passed against the members of the staff.”

16. There can be no manner of doubt, therefore, that the Supreme Court clearly excluded Section 8(2) DSEA from its application to unaided minority schools. Section 8(2) DSEA reads as under:

“8. Term and conditions of service of employees of recognized private schools.

(1)

(2) Subject to any rule that may be made in this behalf, no employee of a recognized private school shall be dismissed, removed or reduced in rank nor shall his service be otherwise terminated except with the prior approval of the Director.”

17. Corresponding to Section 8(2) DSEA are Rules 96 to 121 of Chapter VIII of the DSER. Consistent with Section 12 read with Section 8(2) DSEA, Rule 96(1) DSER clearly states “nothing contained in this Chapter shall apply to an unaided minority school”. Rule 118 and 120 figure in Chapter VIII which, as clearly stated in Rule 96(1), does not apply to unaided minority schools. It is therefore futile for Mr. Saini, the learned counsel for the Clarkes, to contend that notwithstanding the judgment of the Supreme Court in the *Frank Anthony Public School* case, Rule 120 DSER will apply to the School.

18. In order to overcome the difficulty of there being specific provisions applicable to unaided minority schools in Chapter V DSEA (Sections 13 to 15) and Chapter XI of the DSER (Rules 127 to 131), it was submitted by Mr. Saini that only that portion of Section 8(2) read with Rules 118 and 120 which requires prior approval of the Director for removal or dismissal of an employee would not apply to an unaided minority school; short of that the procedure outlined in Rule 120 would apply. This Court is unable to split the provisions contained in Section 8(2) DSEA and Rules 118 and 120 DSER. The legislative intent is clear. Section 8(2) DSEA was not meant to apply to an unaided minority school. If that is

the position then it goes without saying that the corresponding Rules 118 to 120 DSER would also not apply to an unaided minority school.

19. There is also no merit in the contention of Mr. Saini that since the School invoked Rule 121 DSER to contend that the Tribunal could not have directed reinstatement with consequential benefits, the School had in a sense conceded that Chapter VIII DSER in which Rule 121 figured, would apply to an unaided minority school. Rule 121 DSER states that when a dismissed employee is ordered to be reinstated the question of the salary to be paid to such employee for the period he was put of service has to be decided by the MC. It may be that in the proceedings against an unaided private minority institution before the Tribunal under Section 8(3) DSEA a direction is issued regarding reinstatement. In such event an incidental question concerning the implementation of such direction may arise. However, that does not *ipso facto* make Rule 120 DSER, which concerns the procedure to be adopted in the enquiry proceedings for dismissal or removal of an employee, applicable to the unaided minority institution.

20. The decision in ***Christian Medical College Hospital Employees' Union v. Christian Medical College Vellore Association*** does not come to the aid of the Respondents. There, the question was whether a minority educational institution would be amenable to the Industrial Disputes Act, 1947 ('ID Act'). Referring to the judgment of the Supreme Court in ***Ahmedabad St. Xavier's College Society v. State of Gujarat AIR 1974 SC 1389***, it was observed by the Court (AIR @ 45) that:

“The smooth running of an educational institution depends upon the employment of workmen who are not subjected of victimisation or any other kind of maltreatment. The conditions of service of workmen in all institutions including minority educational institutions have to be protected in the interest of the entire society and any unfair labour practice, such as ‘hiring and firing’, termination or retrenchment of the service of a workman on irrational grounds will have to be checked. The Act makes provisions in respect of these matters.”

It was further held that the ID Act “being a general law for prevention and settlement of industrial disputes cannot be construed as a law which directly interferes with the right of administration of a minority educational institution guaranteed under Article 30(1) of the Constitution.” Likewise the decision in ***Behram Khurshid v. State of Bombay*** was rendered in a different context. The decision in the ***Frank Anthony Public School*** case which holds

that Section 8 (2) DSEA would not apply to an unaided minority institution is directly on the point and is binding on the parties as much as on this Court.

21. On this issue, it must be observed that although the Tribunal was right in holding that Section 8(3) DSEA would apply to an unaided minority school it erred in observing as a sequitur that Section 8(2) DSEA read with Rules 118 and 120 DSER would also apply. Consequent upon the above erroneous conclusion, the Tribunal proceeded to observe that the enquiry in the present case was held in violation of Rules 118 and 120 DSER. On this ground alone, the impugned order of the Tribunal deserves to be set aside.

Validity of the enquiry proceedings and removal order

22. The scope of the jurisdiction of this Court under Article 226 to examine the validity of the enquiry proceedings is limited. The procedure followed would have to be shown to be unjust or violative of the principles of natural justice. On merits the report of enquiry would have to be shown to be perverse or based on no evidence. As regards the procedure adopted by the EO in the instant case, as already observed, Rule 120 DSER did not apply to the enquiry proceedings. The EO was nevertheless expected to observe the principles of natural justice. Although the strict rules of evidence and procedure as envisaged in court proceedings need not apply, the procedure adopted had to be just, fair and reasonable.

23. The enquiry in the present case was held by a retired Principal of a public school. The enquiry proceedings show that sufficient opportunity was given to Mr. and Mrs. Clarke to defend themselves. This Court has been taken through the records of the enquiry proceedings and the correspondence between the parties. There were four specific articles of charge dealt with by the EO. The first was about the Clarkes insulting and humiliating the Principal while attempting to forcibly enter the Principal's new (unfinished) bungalow. The second was the unauthorised occupation of the tutorial room. The third was the refusal by the Clarkes to accept the accommodation rented for them by the School at a rent much higher than their entitlement. Fourth was the non-submission of class results by Mr. C.S. Clarke. As regards each item of charge the EO has discussed the evidence led in some detail. It does appear that the Clarkes chose not to lead evidence and were satisfied with making a statement that the reply dated 3rd January 1989 to the memo dated 20th December 1988 should be taken to be their reply to the charge sheet. Importantly, the Clarkes did not

choose to lead evidence as regards the incident of 15th December 1988.

24. It is not possible to conclude that the procedure adopted by the EO in the instant case was not just, fair and reasonable. Merely because the Principal was also the PO does not result in the violation of the principles of natural justice. It is not shown how any prejudice was caused to the Clarkes on that score. Also, they appear to have been given access to those documents that were relevant to the articles of charge. This Court fails to appreciate the observation of the Tribunal that the enquiry was held in a “hush-hush manner”. It is not possible for this Court, in exercise of its jurisdiction under Article 226 of the Constitution, to examine the allegation whether the signatures of the Clarkes on the proceedings of the EO on a particular date were forged as alleged by them. In any event, the Tribunal too declined to entertain their application under Section 340 Cr PC and that part of the impugned order was accepted by the Clarkes. The conclusion arrived at by the EO cannot be held to be based on no evidence or perverse warranting interference by this Court under Article 226 of the Constitution.

25. The DC considered the enquiry report and the comments thereto by the Clarkes. It thereafter took a deliberated decision to impose the punishment of removal from service. The incident of 15th December 1988 involving an attempt to forcibly occupy the Principal’s bungalow in the School campus, the abusing and attempted assault of the Principal, the forcible occupation of the tutorial room and the neglect to turn in the class results, cumulatively considered, are serious enough to warrant the penalty of removal from service.

26. For the aforementioned reasons, this Court finds the impugned order dated 22nd June 2000 of the Tribunal allowing the appeals of the Clarkes to be unsustainable in law. It is hereby set aside. The writ petitions are allowed, but in the circumstances, with no order as to costs.

S. MURALIDHAR, J.

OCTOBER 3, 2011

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