

\$~

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

+ **CRL.M.C. 796/2012 & CrI.M.A.No.2793/2012**

SPRINGDALES EDUCATION SOCIETY Petitioner

+ **CRL.M.C. 821/2012 & CrI.M.A.Nos.2873-75/2012**

VINEET JOSHI Petitioner

AND

+ **CRL.M.C. 1852/2012 & CrI.M.A.No.6448/2012**

R K CHAWLA ASSITANT SECRETARY CENTRAL BOARD
OF SECONDARY EDUCATION Petitioner

versus

STATE GOVT. OF NCT OF DELHI & ANR.

..... Respondents in all petitions.

Appearance : Mr.Amit Bansal, Advocate for
the petitioners in

CrI.M.C.Nos.821/2012 &
1852/2012

Mr.Vivek Agarwal, Advocate for the
petitioner in CrI.M.C.No. 796/2012.

Mr.M.N.Dudeja, APP for the State.

ACP Ramphal Singh, A.C.Branch.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

ORDER

27.05.2013

%

CRL.M.C.Nos. 796/2012, 821/2012 & 1852/2012

page 1 of 5

Signature Not Verified

Signing Date:09.09.2024 17:06:52
Certify that the digital and physical file have
been compared and the digital data is as per
the physical file and no page is missing.

14

1. Present petitions have been filed under Section 482 Cr.P.C. for quashing of the complaint case No. 18/2011 and order dated 24.12.2011 by which the learned Special Judge ordered registration of the FIR under Sections 7 & 13 of POC Act as well as IPC against the persons found guilty.

2. Complaint case under Section 200 Cr.P.C. was instituted by respondent No.2- Deepak Gupta. It was alleged that CBSE had issued a circular No.2 dated 21.02.2011 to prevent commercial activities in the schools. As per the circular, no commercial shops for sale of books, uniforms etc. could be operated within the school campus. Management of Springdale School, Pusa Road, Delhi in contravention the said circular allowed some persons on contract to run shops of uniform, books and canteen in the school campus. The management of the school in abuse of their official position had allowed persons to run the shops in the school campus and have caused monetary loss to the parents of the students. The income earned from the shops has not been reflected in the account books. The complainant further alleged that he had send a complaint dated 13.04.2011 through speed post on 14.04.2011 to Vineet Joshi, Chairman, CBSE to take appropriate action. Vineet Joshi with an intention to provide benefit to the management of the school did not discharge official and statutory duty and deputed R.K.Chawla, Section Officer. R.K.Chawla forward the matter for seeking comments from the management. The complainant further alleged that he had also sent the complaint to Khan Chand, Deputy Director of Education (C & ND) for taking appropriate action. He also did not discharge his official and statutory duties. He also deputed S.K.Nemi, Deputy Education Officer. Complaint was sent to SHO,

CRL.M.C.Nos. 796/2012, 821/2012 & 1852/2012 *page 2 of 5*

15
PS Anti Corruption for registration of FIR but no action was taken.

3. The Trial Court vide order dated 24.12.2011 directed SHO, AC Branch to register an FIR and to investigate the matter. Learned counsel for the petitioners urged that there was no material to order registration of FIR. The impugned order cannot be sustained and was passed without application of mind mechanically. Counsel relied upon '*Subhkaran Luharuka & Anr. Vs. State*', 170 (2010) DLT 516.

4. Allegations against the petitioners were that in violation of circular No.2 issued by CBSE, the management of Springdale School allowed the campus to be used for commercial activities by permitting sale of books & uniforms etc. On receipt of the complaint from respondent No.2- Deepak Gupta, CBSE constituted a fact finding committee to verify the points raised by him alleging that the school was running on commercial basis. The fact finding team visited Dhaula Kuan Branch on 15.09.2011 and surveyed the sites of uniform stall, book stall and canteen. Similarly, a team visited Pusa Road Branch of the school and conducted required investigation. It recorded that the allegations of exploitation of parents compelling them to purchase uniforms and books from shops or stalls were baseless. It concluded that there was no angle of commercialization of education on the part of management in either of its branches. Since, the allegations were unfounded, they recommended to close the matter. Report of Puran Chand, Joint Secretary, COBSE & Member, Fact Finding Committee dated 26.09.2011 is on record. It further reveals that notices were issued to Springdale School and their reply dated 09.05.2011 is on record. Joseph Emmanuel, Deputy Secretary (Aff.) submitted reply to the complaint case to Ramphal Singh,

16

ACP, Anti Corruption Branch vide letter dated 27.06.2011. Ramphal Singh, ACP also submitted status report. Pursuant to the enquiry into Deepak Gupta's complaint vide order dated 06.06.2011 it was concluded that no offence under Section 13 (1) (d) of POC Act and no offence under Sections 166/217/409 IPC were found to have been committed by anyone. At the most, the allegations were of civil nature and should be under the provisions of Delhi School Education Act, 1973. It further noted that the officers of Directorate of Education discharged their duties and conducted appropriate enquiry in which complainant's allegations were found false and frivolous.

5. Apparently, there was no material before the Trial Court to order registration of FIR under Section 7 of POC Act against any individual. Petitioners Vineet Joshi, R.K.Chawla were public servants and in discharge of their official duties, they conducted necessary enquiry into the allegations levelled by the complainant. There are no specific allegations that they forged or fabricated the report after obtaining pecuniary benefits from the management of the school. The allegations against the petitioners are based upon conjectures and surmises and no instance has been given whereby the provisions of POC Act were attracted. Even if there is derelictions of duties on the part of CBSE to ensure compliance of its directions contained in circular No.2, no criminal liability is attracted for that. The complainant did not disclose the fact of non compliance of the directions in the circular No.2. The complaint case does not disclose commission of any cognizable offence.

6. It is relevant to note that respondent No.2 did not opt to appear and contest despite service. Counsel for the petitioners has placed on record the photocopy of the order dated 23.09.2011 in civil suit regarding the issue in

12

question, whereby the petitioners in the said suit No. 140/2010 opted to withdraw the suit. The impugned order cannot be sustained and is set aside. The petitions stand disposed of accordingly.

7. It is made clear that the concerned authorities will be at liberty to take action as per rules/ law if there is any violation of terms of the directions contained in the circular against the defaulter.

8. Pending applications also stand disposed of being infructuous.


S.P.GARG, J.

MAY 27, 2013

tr