

\$~31

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

+ **W.P.(C) 7514/2016**

SHWETA GUPTA & ORS Petitioners
Through: Mr. Kamlesh Kumar, Advocate.

versus

CHAIRMAN MAHARAJA AGARSAIN PUBLIC SCHOOL & ORS Respondents
Through: Mr. Pramod Gupta, Advocate for R-1
and 2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **02.12.2016**

1. The issue in the present case is with respect to whether this Court has jurisdiction or not because it is argued that jurisdiction to decide cases, such as the present, is of Delhi School Tribunal, inasmuch as, the issue is whether or not petitioners have been terminated from services or they resigned from services.

2. This issue has been decided by this Court in the case of *Daya Nand Adarsh Vidlayaya Vs. Deepa Chhibber and Anr.* in W.P. (C) No. 1009/2012 on 19.9.2013. Paragraph 4 of this judgment is directly on the issue and which reads as under:-

“4. In view of the aforesaid judgment of the Supreme Court in the case of *Shashi Gaur (supra)*, in my opinion, there can be no doubt that once a teacher/employee of a school takes up a case that she has been illegally

removed, this aspect very much falls within the jurisdiction of the Tribunal. The mere fact that in determining this issue the Tribunal has also to consider that whether or not the teacher or employee has resigned or not cannot mean that Tribunal will have no jurisdiction because it is only on arriving at a conclusion that there is no valid resignation, would thereafter the Tribunal arrive at a decision of illegal removal of a teacher/employee of a school. Surely, a teacher/employee who is illegally removed, will naturally approach the Tribunal as per the ratio of the Supreme Court in the case of ***Shashi Gaur (supra)***, and surely the defence which is laid out by the school to justify the action of the school would not mean that the issue will not remain that of removal of the teacher/employee from the school. In fact, it is reiterated that it is because of the assertion of the respondent no.1 that she has been illegally removed from the school, and which case has been accepted by the Tribunal, that the impugned judgment has been passed in favour of respondent no.1 and against the petitioner.

3. The present petition is therefore not maintainable before this Court in view of the judgment in the case of ***Daya Nand Adarsh Vidlayaya (supra)*** read with the judgment of the Supreme Court in the case of ***Shashi Gaur Vs. NCT of Delhi, (2001) 10 SCC 445*** and which holds that issues of termination of services have to be decided by Delhi School Tribunal.

4. Learned counsel for respondent nos. 1 and 2/School very fairly states that in case each of the petitioners files a separate appeal before the Delhi School Tribunal within four weeks from today then respondent nos. 1 and 2 will waive any objection to such appeals being barred by time and this statement is acceptable to counsel for

the petitioners.

5. This statement made on behalf of counsel for respondent nos. 1 and 2 will bind respondent nos. 1 and 2.

6. Accordingly, this writ petition is disposed of but the interim order passed in this case is continued for a period of four weeks from today to enable the petitioners to individually file their appeals before the Delhi School Tribunal and the Delhi School Tribunal when the appeals are filed with interim applications the issue of grant of interim orders in accordance with law will be considered by the Delhi School Tribunal.

7. The writ petition is accordingly disposed of in terms of the aforesaid observations, giving the aforesaid liberty.

8. The next date of hearing, i.e. 23rd March, 2017 stands cancelled.

VALMIKI J. MEHTA, J

DECEMBER 02, 2016

AK