

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) No.2727/2017 and C.M. No.11833/2017 (stay)**

% **24th March, 2017**

SANJAY KUMAR Petitioner

Through: Mr. Saurabh Chadda, Advocate.

versus

SCHOOL MANAGEMENT OF JINDAL PUBLIC SCHOOL & ORS.

..... Respondents

Through: Mr. Rizwan, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. The limited prayer in this writ petition under Article 226 of the Constitution of India, as argued before this Court is that the charge-sheet dated 29.6.2011, and the consequent disciplinary proceedings held against the petitioner, be set aside on the ground of delay.

2. The writ petition is clearly an abuse of process of law and an endeavor by the petitioner to scuttle the disciplinary proceedings against the petitioner on account of various acts of gross insubordination alleged against the petitioner including towards the Principal of the school. In fact, there is no delay in the disciplinary

proceedings though the charge-sheet is of the year 2011, inasmuch as, actually earlier upon the petitioner a punishment of removal from services was imposed by the disciplinary authority vide order dated 4.11.2011. This order was challenged by the petitioner by filing an appeal before the Delhi School Tribunal (DST). The appeal was allowed by the DST and the challenge by the school to the order of the DST before this Court in W.P.(C) No.8537/2015 was unsuccessful as this writ petition was dismissed by the learned Single Judge of this Court as per the judgment dated 7.9.2015. Thereafter the LPA was filed by the school against the judgment of the learned Single Judge dated 7.9.2015 being LPA No.663/2015, and wherein the Division Bench vide its judgment dated 29.9.2015 though upheld the order of the DST and the learned Single Judge, however the Division Bench in the LPA directed continuation of the enquiry from the stage of submission of the written statement by the petitioner in the enquiry proceedings. Therefore, presently the proceedings which are now continuing are only with respect to the balance enquiry proceedings pursuant to the judgment of the Division Bench dated 29.9.2015.

3. In the facts of the present case therefore it cannot be therefore said that there is such amount of delay for quashing of the charge-sheet at this stage itself without enquiry being conducted by the

enquiry officer. In any case, delay will not result in quashing of the enquiry proceedings unless delay causes prejudice to the petitioner and which prejudice has to be explained in detail in a writ petition for quashing of the enquiry proceedings stating that now because of the delay the petitioner is prejudiced in an irreparable manner, but this however is not found as per the pleadings in the writ petition.

4. It is therefore clear that this writ petition is misconceived and only an endeavour to ensure that somehow or other enquiry proceedings against the petitioner come to a close without actually there being findings by the enquiry officer.

5. Dismissed.

MARCH 24, 2017
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VALMIKI J. MEHTA, J