

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

+ **W.P.(C) No.14149/2009**

% **28<sup>th</sup> February, 2017**

ST. ANTHONY'S GIRL'S SR. SEC. SCHOOL THROUGH ITS  
MANAGER AND ANR. .... Petitioners

Through Dr. M P Raju, Advocate

versus

GOVT. OF NCT OF DELHI AND ORS. .... Respondents

Through Mr. Peeyosh Kalra, ASC,  
GNCTD with Ms. Sona Babbar,  
Advocate for Respondent No.2

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

To be referred to the Reporter or not? **YES**

**VALMIKI J. MEHTA, J (ORAL)**

1. By this writ petition under Article 226 of the Constitution of India, petitioner no.1/school seeks the relief of quashing of the impugned order dated 17.08.2009 of the respondent no.2/Director of Education declining age relaxation for appointment of one Ms. Alamma AJ as the Principal of petitioner no.1/school. The impugned order dated 17.08.2009 reads as under:-

**“GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI  
OFFICE OF THE ADDITIONAL DIRECTOR OF EDUCATION  
DIRECTORATE OF EDUCATION, OLD SECTT., DELHI  
(ACT BRANCH)**

No. F.DE.15/ACT/2009/9897-98

Dated:17.8.2009

**ORDER**

With reference to the directions of the Hon'ble High Court of Delhi in WP(C) 530/2001 & CM 10028/2008 dated 24/10/2008, I am directed to convey the candidate that Ms. Alamma A.J was considered and found not fit for the post of Principal, on account of age restriction prescribed under the Recruitment Rules applicable to the post.

This issues with the approval of Competent Authority.

Sd/-

**(RASHMI KRISHNAN)**

**ADDL. DIRECTOR (EDUCATION)**

To

The Manager, St. Anthony Girls Sr. Sec. School, Pahar Ganj, New Delhi through the Deputy Director of Education, Distt. Central/New Delhi.

Sd/-

**(RASHMI KRISHNAN)**

**ADDL. DIRECTOR (EDUCATION)"**

2. The relevant recruitment rules for appointment of Principal to a school in Delhi are as under:-

**“DELHI GAZETTE : EXTRAORDINARY  
EDUCATION DEPARTMENT  
NOTIFICATION**

Delhi, the 7<sup>th</sup> April, 1980

**No.F.32/1/84/Gen./78-80/3721-4161** - In exercise of the powers conferred vide Sec.8(1) and Section 13 of Delhi School Education Act, 1973 (18 of 1973) read with rule 100 of Delhi School Education Rules, 1973 made under the said Act, the Administrator of Delhi hereby makes the Recruitment Rules for the post of Principal and Vice-Principal in Recognized Pvt. Schools including Unaided Minority Schools in Consultation with the Delhi School Education Advisory Board and Central Board of Secondary as per Annexure “A” & “B”.

These Recruitment Rules shall come into force with immediate effect.

**ANNEXURE “A”**

Recruitment Rules for the post of Principal working in Recognized Schools in the Union Territory of Delhi.

| Name of post | Scale of pay     | Whether selection post or non selection | Age limit for direct recruitment                                                                                                                      | Educational qualifications                                                                                                                                                                   |
|--------------|------------------|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1            | 2                | 3                                       | 4                                                                                                                                                     | 5                                                                                                                                                                                            |
| Principal    | Rs.1100- 50-1600 | Selection                               | A. Not exceeding 45 years.<br>Relaxable by 5 years for a candidate belonging to Schedule Caste / Schedule Tribe.<br><br>B. Age relaxable in case of a | (i) Master's Degree with at least II Division from a recognized University or equivalent.<br>(ii) Degree in Teaching Education from a recognized university or equivalent.<br>(iii) 10 years |

|                                                                                                                    |                             |                                                  |                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------------------------------------------------------|-----------------------------|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                    |                             |                                                  | candidate belonging to the same school.<br><br>Note: The crucial date for determining the age limit shall be the closing date for receipt of application from the candidate | experience of teaching as Vice-Principal TGT in Hr. Sec. School / Sr. Sec. School or inter college.<br>*Condition of Second Division relaxable in the case of candidate belonging to the same school and also in case of SC/ST candidates.<br>Desirable:-<br>(i) Experience in Administration charge of a recognized High/Sr. Sec. school/ inter college<br>(ii) Doctorate Degree<br>(iii) M.Ed. Degree from a recog.university. |
| Whether age and educational qualifications prescribed for direct recruits will be applicable in case of promotion. | Period of probation if any. | Method of rctt.                                  | In case of promotion deputation/ transfer grades from which transfer/ deputation / promotion to be made.                                                                    | If a Selection Committee exists what is its composition                                                                                                                                                                                                                                                                                                                                                                          |
| 6                                                                                                                  | 7                           | 8                                                | 9                                                                                                                                                                           | 10                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 1 Age: no<br>2Qualifications yes, except as indicated in col. no.5                                                 | one year                    | By promotion failing which by direct recruitment | Promotion out of vice principal / PGTs                                                                                                                                      | The Selection committee as prescribed under the Delhi School Education Act & Rules.                                                                                                                                                                                                                                                                                                                                              |
|                                                                                                                    |                             |                                                  |                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                  |

Note :- Competent Authority may relax any of the essential qualifications in case of candidate belonging to the same school after recording reasons thereof.

### DELHI GAZETTE : EXTRAORDINARY

#### ANNEXURE – B

Recruitment Rules for the post of Principal and Vice-Principal working in the Government aided school and recognized Schools in the Union Territory of Delhi.

| Name of post | Scale of pay | Whether Selection post or non-selection | Age limit for direct recruits | Educational qualifications |
|--------------|--------------|-----------------------------------------|-------------------------------|----------------------------|
| 1            | 2            | 3                                       | 4                             | 5                          |
| Vice-        | Rs.650-      | Selection                               | (a)Not exceeding 45           | Essentials:-               |

|                                                                                                                    |                                               |                                                  |                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Principal                                                                                                          | 30-740-35-810-EB-35-880-40-40-1000 EB-40-1200 |                                                  | years. Relaxable by 5 years for a candidate belonging to Schedule Castes/ Schedule Tribes.<br>(b) Age relaxable in case of a candidate belonging to the same school.          | (a) Master's Degree with at least II Division from a recognized University or equivalent.*<br>(b) Degree in Teaching Education from a recognized university or equivalent.<br>(c) 10 years experience of teaching as TGT or 5 years experience of teaching as PGT.<br>*Condition of second division relaxable in the case of candidate belonging to the same school and also in case of Schedule Caste/Schedule Tribes.<br><br>Desirable:<br>(i) Experience in Administration charge of a recognized High/Sr. Sec. school/Intermediate College<br>(ii) Doctorate Degree<br>(iii) M.Ed. Degree from a recognized University. |
| Whether age and educational qualifications prescribed for direct recruits will be applicable in case of promotion. | Period of probation if any.                   | Method of recruitment                            | In case of rectt.promotion deputation/ transfer grades from which transfer/ deputation / promotion to be made.                                                                | If a Selection committee exists what is its composition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 6                                                                                                                  | 7                                             | 8                                                | 9                                                                                                                                                                             | 10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1. Age: no<br>2. Qualifications: yes, except as indicated in col. no.5                                             | one year                                      | By promotion failing which by direct recruitment | Promotion out of (i) PGT/HM/ of the same school with atleast 5 years experience as PGT/HM.<br>(ii) PGTs with at least 10 years experience as TGT in case of Secondary Schools | The selection committee as prescribed under the Delhi School Education Act & Rules.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

Note :- Competent Authority may relax any of the essential qualifications in case of candidate belonging to the same school after recording reasons thereof.

3. In terms of the notification of the recruitment rule, the requirement for appointment of a Principal of a school as per column 4 of the notification dated 07.04.1980; the maximum age for appointment to post of Principal is 45 years i.e the age barrier is of 45 years. A person above the age of 45 years, therefore ordinarily, cannot be appointed as Principal of the school.

4. The self-same column 4 at para B however specifies that the age barrier is relaxable in case of a candidate belonging to the same school. This aspect is further stated by means of a note to this recruitment rule which provides that the competent authority may relax any of the essential qualification in case of a candidate belonging to the same school, and reasons will have to be recorded by the competent authority as regards grant or denial of relaxation of essential qualifications.

5. I am of the opinion that both column 4 & 5 lays down essential qualifications for appointment of a Principal and that column 4 is an essential qualification with respect to age barrier and column 5 is with respect to essential qualifications which are educational qualifications. I, therefore, do not agree with the argument urged on behalf of petitioners that the age relaxation issue is not an essential qualification.

6. In the present case Ms. Alamma AJ was appointed as Principal of the petitioner no.1/school in terms of the Minutes of Meeting of the Selection Committee dated 02.01.2009 and which Minutes of Meeting read as under:-

**Minutes of the Selection Committee meeting of St. Anthony's Girls' School, Paharganj, New Delhi held on 2<sup>nd</sup> January, 2009 at 10.00 a.m. in the school premises**

A meeting of the Staff Selection Committee was held to choose and recommend a suitable candidate to fill the vacant post of Principal, St. Anthony's Girls Senior Secondary School, Paharganj, New Delhi, fell vacant due to the superannuation of Miss E. Joseph, Principal.

The Members present:

| <u>S.No.</u> | <u>Name</u>                                                                                    | <u>Design.</u>                                           |
|--------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| 1.           | Rev. Sr. Sharlet CFMSS                                                                         | Chairperson                                              |
| 2.           | Rev. Sr. Sebastina, CFMSS                                                                      | Councillor – Education<br>Seraphina Educational Society. |
| 3.           | Rev. Sr. Laura,                                                                                | Manager                                                  |
| 4.           | Rev. Sr. Agatha                                                                                | Member (Educational<br>Co-ordinator)                     |
| 5.           | Rev.Fr. Jose Philip                                                                            | Educationist                                             |
| 6.           | Adv. Justin Fernandez                                                                          | Educationist                                             |
| 7.           | The Dy. Director of Education<br>Distt South West (B)                                          | Govt. Observer/Adviser                                   |
| 8.           | The Dy. Director of Education<br>Distt. Central / New Delhi                                    | Govt. Observer/Adviser                                   |
| 9.           | The Assistant Director of Education<br>(Vocational), Distt Central,<br>Plot No 5, Jhandewalan, | Govt. Observer/Adviser                                   |

In pursuance of the decision and order the Hon'ble High Court of Delhi in the matter of:-

**St. Anthony's Girls' Senior Sec. School**

**V/s**

**The Govt. of NCT Delhi and Ors.**

**W.P.(C) 530/2001 & CM 10028/2008**

The post was advertised in the Hindustan Times and Hindustan (Hindi) on 9<sup>th</sup> December, 2008. There were (16) sixteen candidates responded to the Advertisement. All of them were called for the interview by intimating through speed post. Out of them 13 following candidates have appeared before the selection committee.

- |                            |                                |
|----------------------------|--------------------------------|
| 1. Ashu Sachdeva           | 2. Soosamma Joseph             |
| 3. Tanushree Bhattacharaya | 4. Archana P. Kumar            |
| 5. Alamma A.J.             | 6. Seline Maria Josephine K.A. |
| 7. Parveen Vashist         | 8. Namita Garg                 |
| 9. Regi Joseph             | 10. Bharti Jha                 |
| 11. Nidhi                  | 12. Annamma K.P.               |

13. Rekha Rani Khanna

Among the candidates appeared before the SSC **Miss Alamma A.J.** is found most suitable to be recommended to appoint to fill the vacant post of Principal. After conducting the interview the SCC unanimously recommended Miss Alamma A.J. for appointment in the post of Principal but the date of birth of Miss Alamma A.J. 28.8.1951 therefore she is overaged. The Managing Committee of the school while considering the recommendation of the SSC may get the approval of the Director of Education for age relaxation in the upper age in respect of Miss Alamma A.J. as she is working in the same school from 1983 as TGT till 2000 and functioning as PGT from 2000 to till date.

sd/-

1. Rev. Sr. Sharlet CFMSS  
Chairperson

sd/-

2. Rev. Sr. Sebastina  
Councillor – Education  
Seraphina Educational Society.

sd/-

3. Rev. Sr. Laura,  
Manager

sd/-

4. Rev. Sr. Agatha  
Educational Co-ordinator  
Member

sd/-

5. Rev.Fr. Jose Philip  
Educationist

sd/-

6. Adv. Justin Fernandez  
Educationist

sd/-

7. The Dy. Director of Education  
Distt South West (B)  
Govt. Observer/Adviser

sd/-

8. The Dy. Director of Education  
Distt. Central / New Delhi  
Govt. Observer/Adviser

sd/-

9. The Assistant Director of Education  
(Vocational), D.E. (Nominee)  
Govt. Observer/Adviser”

7. Minutes of Meeting dated 02.01.2009 shows that the appointment of Ms. Alamma AJ was by means of direct recruitment by first advertising the post in newspapers Hindustan Times and Hindustan (Hindi) on 09.12.2008. The same Minutes of Meeting dated 02.01.2009 also records that Ms. Alamma AJ was over age and therefore approval will have to be taken of the respondent no.2/Director of Education for age relaxation. Therefore, not only

because of the contents of Minutes of Meeting dated 02.01.2009 but also because of the language of recruitment rule which provides for age relaxation, and which is to be taken with Rule 97 of the Delhi School Education Rules, 1973, the respondent no.2/Director of Education was required to examine as to whether or not age relaxation can or cannot be granted to Ms. Alamma AJ for her appointment to the post of Principal of the petitioner no.1/school.

8. For the sake of completion of narration, Rule 97 of the Delhi School Education Rules is reproduced as under:-

**“97. Relaxation to be made with the approval of the Director.-** Where the relaxation of any essential qualification for the recruitment of any employee is recommended by the appropriate Selection Committee, the managing committee of the school shall not give effect to such recommendation unless such recommendation has been previously approved by the Director.”

9. The conspectus of the above discussion shows that there is a recruitment rule for appointment to the post of Principal, various essential qualifications are provided for appointment to the post of Principal including of age and educational qualifications, essential qualifications can be relaxed by the competent authority both in terms of the language of the recruitment rule as also by virtue of Rule 97 of the Delhi School Education Rules. This aspect of age relaxation was recommended by the petitioner no.1/school to the competent authority, but the same was rejected by impugned order dated 17.08.2009.

However, the impugned order dated 17.08.2009 shows that same is a non-speaking order and does not give any reasons for refusing age relaxation for appointment of Ms. Alamma AJ to the post of Principal of the petitioner no.1/school.

10. It is settled law in view of a Constitution Bench judgment of the Supreme Court in the case of *S.N. Mukherjee vs. Union of India AIR 1990 SC 1984* that whenever a quasi judicial authority or a statutory authority is required to take a decision, such a decision must be by means of a speaking order giving reasons. Since the impugned order dated 17.08.2009 only rejects the request for age relaxation made by the petitioner no.1/school for appointment of Ms. Alamma AJ without giving reasons by the Director of Education/Competent Authority, accordingly, the impugned order dated 17.08.2009 will have to be quashed as law requires the impugned order to be a speaking or reasoned order, and which it is not.

11. I may also note that there was another issue in the present case of whether Ms. Alamma AJ was or was not qualified in terms of recruitment rules because there was an issue that since Ms. Alamma AJ was only a TGT, hence, she could not be considered for appointment to the post of Principal, but learned counsel for respondent no.2/Director of Education has placed on record a copy of Gazette Notification dated

07.04.1980 as reproduced hereinabove, and it is therefore conceded by respondent no.2/Director of Education that there is no requirement of a candidate being a PGT for being considered for appointment to the post of Principal of a school and even a TGT candidate can be considered for appointment as a Principal to a school in Delhi.

12. In view of the above said discussion, this writ petition is disposed of by setting aside the impugned order dated 17.08.2009 and a direction is given to respondent no.2/Director of Education to hear the petitioner no.1/school and thereafter pass a speaking/reasoned order giving reasons as to why age relaxation should not be granted with respect to appointment of Ms. Alamma AJ as Principal of the petitioner no.1/school and as has been requested by the Selection Committee Minutes of Meeting dated 02.01.2009. The necessary speaking/reasoned order be passed by respondent no.2/Director of Education within a period of two months from today.

13. Writ petition is disposed of accordingly and parties are left to bear their own costs.

**FEBRUARY 28, 2017**  
**sm**

**VALMIKI J. MEHTA, J**