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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3861/2017, CM No. 16960/2017
ASHA RANI Petitioner
Through: Ms.Indrani Ghosh, Adv.

versus

MANAGING COMMITTEE ST. ANGELS SCHOOL & ORS.
..... Respondents
Through: Mr.Prakash Gautam, Adv. for R-1 to 3
Mr.Sanjay Dewan, Ms.Palak, Advs. for R-4

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **05.05.2017**

1. The present petition has been filed with the following prayers:-

“(a) Issue a writ, order or direction in the nature of mandamus calling for the entire records of the school pertaining to the petitioner, regarding the petitioner’s subsistence allowance being withheld from March 2017 onwards;

(b) Issue a writ of certiorari or any other appropriate writ, order or direction declaring the orders dated 07.04.2017, 13.4.2017, 20.4.2017 as illegal, mala fide and arbitrary and thereby quashing and/or setting aside the said orders which are obliterating the mandate of Rule 116 (1) (c) of the Rules;

(c) Issue a writ, order or direction in the nature of mandamus directing the school to accept the certificates given by the petitioner which are in conformity of Rule 116 (1) (C) of the Rules;

Any other further orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

2. A short issue arises for consideration whether the petitioner is entitled to subsistence allowance in the absence of a certificate from the petitioner certifying, she is not professionally engaged. Ms. Indrani Ghosh, learned counsel appearing for the petitioner states, such a certificate has been submitted to the Head of the School on 16th April, 2017 and despite such a certificate, the subsistence allowance is not being paid.

3. It is conceded position that the petitioner is acting as Defence Assistant in enquiry proceedings initiated by the school against some employees. Ms. Ghosh states, the petitioner is not being paid remuneration by the employees for whom she is acting as a Defence Asstt. She states, the objection of the petitioner is also, on the usage of the word, “professionally engaged”, as according to her, acting as a Defence Asstt. does not amount to professional engagement.

4. On the other hand, the learned counsel for the respondent nos.1 to 3 states that the whole issue can be resolved if the petitioner is directed to give a certificate that she is not being paid remuneration by the employees for whom she is acting as a Defence Asstt.

5. As I have noted the statement made by Ms.Indrani Ghosh that the petitioner is not being paid any remuneration, the petitioner shall give a certificate on similar lines to the School today itself. On receipt of such certificate, the respondent Nos. 1 to 3 shall release the subsistence allowance for the months of March and April, 2017. I take on record the statement of Ms. Ghosh that petitioner will comply with the requirement of the Rule by submitting the certificate every month.

6. I also note, the statement made by Mr.Prakash Gautam, that the requirement of the petitioner to inform the Administrative Officer of the

school regarding her absence in any manner, as an excuse for not attending the enquiry proceedings fixed on schedule date by the enquiry officer where she is acting as a Defence Asstt. shall not be insisted upon and the usage of the word, 'professional engagement' by the school is only with regard to petitioner acting as a Defence Asstt in the enquiry proceedings initiated against the employees.

7. Petition as well as application are disposed of.

V. KAMESWAR RAO, J

MAY 05, 2017

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