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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6354/2017, CM No. 26294/2017**
SANDHYA BINDAL

..... Petitioner

Through: Mr. Rakesh Tiku, Sr. Adv. with
Ms. Saahila Lamba, Mr. Sandeep
Kumar & Ms. Disha Ganjoo, Advs.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondent

Through: Mr. Ramesh Singh, SC (GNCTD)
with Mr. Rahul Rajput & Mr.
Siddharth Dutta, Advs. for
R-1 to 3

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
ORDER
% **26.07.2017**

1. The present petition has been filed by the petitioner challenging the order dated July 20, 2017, whereby the respondent No.3 has directed the respondent No.4 School to take action against the petitioner under Rules 115, 117 and other connected Rules/Provisions of Delhi School Education Act and Rules, 1973, failing which, action against the School management under Section 24(4) of the said Rules shall be initiated.
2. The submissions of Mr. Rakesh Tiku, learned Senior Counsel for the petitioner are; (i) the Directorate has no power to give direction to School to

initiate such an action; (ii) the inquiry conducted by the Inquiry Committee, which resulted in the impugned order, is in violation of principles of natural justice, (iii) even if the power exist to conduct such an inquiry/give directions, there was no material before the Committee to come to a conclusion, as arrived at against the petitioner in the impugned order, (iv) when the Directorate has not found anything against the petitioner, in the month of April, 2017 and no new material has come on record till July, 2017, the new Committee could not have given finding against the petitioner.

I may state here, at the commencement of his submissions Mr. Tiku has placed before me, Suspension Order dated July 25, 2017 issued by the School conveying the decision of the School Management Committee to place the petitioner under suspension under Rule 115 of the DSEAR Rules, 1973. Vide the same order, it was also decided to initiate disciplinary proceedings against her under Rule 117 read with Rule 120 of the DSEAR Rules, 1973.

3. Insofar as the first submission of Mr. Tiku is concerned, suffice to state, on a perusal of the impugned order, it is noted that a reference is made to various complaints/representations received in the department from

various sources. The order also records, the finding of the Inquiry Committee that the school management has failed to take effective and appropriate steps against the petitioner. Given the background, and the fact that the Delhi School Education Act and Rules made thereunder have been enacted / framed to provide better organization, development, and regulating the School education in Delhi, and the power to regulate the education lies with the Administrator, or any of the Officer authorized by him in this behalf and various provisions exist in the Act like Section 8(4), which relates to suspension of an employee of a recognized private School with the approval of the Director; Section 115 also stipulates the manner in which the suspension can be effected; Rule 120 contemplates no major penalty shall be made by the Disciplinary Authority except with the approval of the Director and further Rule 122, stipulates employees to be governed by the code of conduct, surely on school's failure to take action, the Directorate need to step in for ensuring discipline.

4. The submission of Mr. Tiku that the respondent No.3 could not have given a direction under Rule 24(3) for taking action against an individual employee, as Section 24 relates to inspection of Schools by the Director and for removal of any defect or deficiency found on such inspection, is

appealing on a first blush but on a deeper consideration, if the supervisory role of the Director is contemplated under the Scheme of the Act and the Rules, such a direction cannot be faulted. When power exists it is immaterial, under which provision direction has been given.

5. Insofar as the submission of Mr. Tiku that the Enquiry Committee has given findings against the petitioner without hearing her is concerned, the impugned order reveals the Inquiry Committee was set up to go into the allegations made in various complaints/representations from various sources including the parents of the students and the same is in the nature of a fact finding enquiry to ascertain the allegations in the complaints/representations for which there is no requirement in law to hear the petitioner. It is only a prima facie view, which shall be subject to the outcome of disciplinary proceedings under Rule 120 of DSEA Rules, 1973. No prejudice has been caused to the petitioner.

6. Insofar as the submission of Mr. Tiku that between April, 2017 and July, 2017 no new material has come on record and the Committee could not have held that the petitioner has committed serious misconduct is concerned, the same shall be seen by the Inquiry Officer in the disciplinary proceedings to be initiated by the School. This Court would refrain itself from going into

the relevancy/sufficiency of the material available with the Inquiry Committee to draw a conclusion against the petitioner. I do not see any merit in the petition, the same is dismissed.

CM No. 26294/2017 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 26, 2017/ak