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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 67/2017

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6th January, 2017

SCHOOL MANAGEMENT OF RING MIDWAYS SENIOR
SECONDARY PUBLIC SCHOOL Petitioner

Through: Mr. Rajesh Kumar and Mr. Avinash
Kumar, Advocates.

versus

RIVA SINGH & ANR.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 and Article 227 of the Constitution of India, the petitioner/school impugns the order of the Delhi School Tribunal dated 7.12.2016, by which the Delhi School Tribunal has allowed the appeal filed by the respondent no.1 herein and directed that she will be reinstated in employment by the petitioner/school.

2. A reading of the impugned order of the Delhi School Tribunal shows as under:-

(i) Respondent no.1 was confirmed as an Assistant Teacher in the petitioner/school on 10.7.2011.

(ii) An inspection report was prepared by a committee constituted by the Director of Education, which is dated 15.5.2014, and which showed various discrepancies in the working of the petitioner/school including wrongful appointment of teachers, financial irregularities etc etc.

(iii) In this report dated 15.5.2014, the name of the respondent no.1 herein (appellant before the Delhi School Tribunal), does not exist in that the committee of the Director of Education has not observed that respondent no.1 has been illegally appointed.

(iv) In fact a reading of the impugned judgment of the Delhi School Tribunal, as also all other pleadings, shows that there is no issue with respect to lack of qualifications alleged of the respondent no.1 for being disentitled to be appointed as an Assistant Teacher with the petitioner/school.

(v) Admittedly the respondent no.1 was a confirmed teacher and she was removed from services without following the due procedure provided in Rule 120 of the Delhi School Education Rules, 1973 of setting up of a disciplinary authority, enquiry report being submitted after allowing both

the parties to lead evidence, a disciplinary authority validly constituted which has accepted the report of the enquiry officer against the respondent no.1/teacher, and whereby the respondent no.1/teacher has been held/accepted to be illegally appointed and hence she has to be removed. Therefore, there is admitted violation of the provisions of the Delhi School Education Rules which require that a confirmed employee can only be removed from services after following the due process of law and by conducting of an enquiry as per the Delhi School Education Act and Rules.

(vi) No prior permission of the Director of Education was taken as required by Section 8(2) of the Delhi School Education Act, and which prior permission has been held to be mandatory by the Supreme Court in its recent judgment in the case of ***Raj Kumar Vs. Director of Education and Others, (2016) 6 SCC 541*** Civil Appeal No. 1020/2011 decided on 13.4.2016; and as so observed by the Delhi School Tribunal in para 24 of its judgment. Therefore, without actual permission having been taken or being actually available, the act of the petitioner/school in removing the respondent no.1 from services is violative of Section 8(2) of the Delhi School Education Act read with ratio of the judgment of the Supreme Court in ***Raj Kumar's*** case (*supra*).

3. All the aforesaid aspects arise from the record and could not be effectively disputed or challenged by the petitioner/school in this Court and thus once the respondent no.1 was a confirmed employee and whose services have not been terminated after following the due process of enquiry as required under Rules 118 and 120 of the Delhi School Education Rules and also that admittedly no disciplinary authority was constituted and which took decision to remove the respondent no.1, and which aspects have to be taken with the fact that no permission was obtained by the Director of Education for removal of the respondent no.1, clearly, hence there is no illegality found in the impugned judgment of the Delhi School Tribunal allowing the appeal of the respondent no.1 and reinstating the respondent no.1 in the services of the petitioner/school.

4. Dismissed.

JANUARY 06, 2017
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VALMIKI J. MEHTA, J