

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 10913 of 2018
Date of Decision: 03.05.2018**

Mewat Model Schools Society (Regd.) ...Petitioner
Vs.
Mrs. Meena Kumari and another ...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vinod S. Bhardwaj, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. This order will dispose of above-mentioned case as well as other writ petitions* tabulated at the foot of the order, as common questions of law and facts are involved in them which can conveniently be decided by a common order.

2. Heard.

3. The learned District and Sessions Judge, Mewat exercising the powers of Educational Tribunal has passed a well reasoned order *mutatis mutandis* in the 10 appeals from where these 10 writ petitions arise, setting aside the termination orders of the appellants, respondents in the present writ petitions. The petitioners were appointed in different capacities in the Mewat Model Schools run by the Mewat Model School Society registered under the Societies Registration Act, 1860. One of the appellant; Ms. Meena Kumari was appointed as PRT in school by order dated 22.10.2014.

4. The first condition of the letter of appointment was that her

services will be on probation for one year which may be extended by another year but not exceeding two years in total. It is beyond cavil that Meena Kumari/other respondents had served the school in different capacities till their services were terminated vide orders dated 09.03.2017. In view of condition No.1, their services are to be treated as regular on completion of the period of probation. There was no term in the appointment letter that confirmation had to be in writing on expiry of maximum period of probation. They became regular hands and had a right to be treated as regular employees in matters regarding service. It is argued that the appointments of the appellants came up at a time when the election code of conduct was announced and with the change of Government, a Committee was set up by the Divisional Commissioner/Chairman of the Mewat Model School Society to go into the validity of the selection process which led to the appointments. The members of the Committee were the officers of the District Administration. The enquiry report is at Annex. P-8. The case of the appellants is dealt with in the report found at page 50 of the paper book. The case of Meena Kumari is mentioned at No. (e) at the page 54 of the paper-book. What is found against her from the available record of the office was that the 1 mark was granted to the candidate for co-curricular activities but the certificate (NSS) is not available in her record and therefore the 1 mark has to be deducted.

5. Without going into the merits of what the Committee5

discovered from the record against the appellant, one thing is certain, as found by the Educational Tribunal is that the Committee recorded evidence behind the back of the appellants. They are not associated with the enquiry. The exercise was based only on scrutiny and verification of the documents. The appellants/respondents being regular employees could not have been subjected to an ex-parte enquiry in which they were not given an opportunity to defend themselves. The Tribunal has found that the period of probation was completed on 27.10.2016 and, therefore, the termination order was bad in law. Regular employees cannot be open to hire and fire and any such hire or fire action is arbitrary and illegal in view of the Delhi Transport Corporation Vs. D.T.C Mazdoor Congress, AIR 1991 SC 101, 1990 SCR Supl. (1) 142.

6. I have also very serious doubt as to whether the Divisional Commissioner/Chairman, Mewat Model School Society could have embarked upon a fishing enquiry as to the nature of the appointments of the appellants/respondents without any legal sanction shown to start the process. If the schools were run by the Society then resort will be had only to the provisions of the Societies Registration Act, 1860. The Government interference in the private aided schools could not extend to service matters and would concern only matters of recognition and affiliation, which have nothing to do with employment. It is contended that the code of conduct was declared, the appellants were appointed, then it follows by the same logic that with the change of Government

appointments could not be justified even after the probation period was cleared, that to, without any comment on the work and conduct not being unsatisfactory.

7. In any case, the judicial review of orders and awards of Tribunals is limited to see that the order does not suffer from any perversity, irrationality or arbitrariness. This clarification is recorded in the order dated 01.02.2018 passed in these bunch of cases. The orders have been passed clearly in violation of principles of natural justice. If the termination orders are found illegal and are set aside, consequential benefits will automatically follow.

8. Having heard the learned counsel for the Society, I find no legal infirmity in the judgment and orders justifying interference.

9. As a result, the petitions are dismissed.

(RAJIV NARAIN RAINA)
JUDGE

03.05.2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTIES NAME
1.	CWP-10912-2018	Mewat Model Schools Society (Regd.) vs. Sushila Devi and another
2.	CWP-10914-2018	Mewat Model Schools Society (Regd.) vs. and Vijay Kumar and another
3.	CWP-10915-2018	Mewat Model Schools Society (Regd.) vs. Kanhi Ram and another

4.	CWP-10916-2018	Mewat Model Schools Society (Regd.) vs. Poonam Lata and another
5.	CWP-10917-2018	Mewat Model Schools Society (Regd.) vs. Neeraj and another
6.	CWP-10918-2018	Mewat Model Schools Society (Regd.) vs. Ravinder Kumar and another
7.	CWP-10919-2018	Mewat Model Schools Society (Regd.) vs. Ved Ram and another
8.	CWP-10920-2018	Mewat Model Schools Society (Regd.) vs. Naveen Kumar and another
9.	CWP-10921-2018	Mewat Model Schools Society (Regd.) vs. Meena and another
10.	CWP-10922-2018	Mewat Model Schools Society (Regd.) vs. Meenu Sharma and another

03.05.2018

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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

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Yes/No

Whether reportable

:

Yes/No