

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

Date of Order: May 31, 2018

+ **W.P.(C) 1984/2018 & CMs 8175/2018, 12666/2018 & 6586/2018**
DR SHELLY BHUTANIPetitioner

Through: Mr. Khagesh B Jha, Advocate

Versus

MAHARAJA AGRASAIN EDUCATIONAL SOCIETY

& ORS.Respondents

Through: Mr. Kamal Gupta, Ms. Tripti
Gupta, Ms. Ayushi Dhingra, Ms. Sanjana Gupta
and Ms. Leena Saxena, Advocates for
respondents No. 1 and 2
Mr. Satyakam, ASC with Mr. Shashwat Parihar,
Advocate for respondent No. 3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned Communication of 20th February, 2018 withdraws the resolution vide which petitioner was promoted to the post of Vice Principal. The challenge to impugned Communication (*Annexure A*) is on the ground that no approval from the Director of Education, Govt. of NCT has been taken. While entertaining this writ petition, it is noted in the order of 1st March, 2018 that the net effect of impugned Communication is that petitioner has been reduced to the rank of TGT. *Status quo* qua the service of petitioner was ordered on 1st March, 2018.

2. Now an application has been filed by respondent-society and school for dismissal of the writ petition on the ground that the jurisdiction against impugned Communication lies with the Delhi School Tribunal as the impugned Communication amounts to reduction in rank.

3. Learned counsel for petitioner draws the attention of this Court to Section 8 (3) of the Delhi School Education Act, 1973 and relies upon decision of this Court in *Presiding Officer Delhi School Tribunal vs. Govt. of NCT of Delhi* 2010 SCC OnLine Del 2924 wherein it has been held that Delhi School Tribunal has no jurisdiction to deal with the minor penalties inflicted and the matter of suspension cannot be challenged before the Tribunal. The precise submission of petitioner's counsel is that an appeal can be filed against an order of removal, termination, reduction in rank and regarding impugned Communication, he submits that petitioner has not been reduced in rank. It is submitted that respondent-Society has no authority in law to issue the impugned Communication to reduce petitioner in rank.

4. Learned counsel for respondents submits that there is no foundation in the writ petition regarding the stand now taken and since the respondent-School is being run by the respondent-society therefore, the validity of impugned order can be tested before Delhi School Tribunal. Reliance is placed upon the decision in *Shashi Gaur vs. NCT of Delhi and Others* (2001) 10 SCC 445.

5. Upon hearing and on perusal of material on record and the decisions cited, I find that the impugned communication reduces the rank of petitioner from Vice Principal to TGT and thus, in view of Section 8

(3) of the Delhi School Education Act, 1973, the challenge to impugned order of 20th February, 2018 lies before the Delhi School Tribunal.

6. In view of the aforesaid, it is deemed appropriate to dispose of this petition and the applications while relegating petitioner to assail the impugned communication before the Delhi School Tribunal within a period of four weeks. If it is so done, then petitioner's appeal be considered by the Delhi School Tribunal on merits without insisting upon technical objection on delay etc.

7. With the aforesaid directions, this petition and the applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

MAY 31, 2018
v/p