

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

Date of Order: May 01, 2018

+ **W.P.(C) 9823/2016**

+ **W.P.(C) 9867/2016**

+ **W.P.(C) 9868/2016**

+ **W.P.(C) 9901/2016**

+ **W.P.(C) 9902/2016**

AZAD DEVI
SUNITA SETHI
PRAKASH DAGAR
KRISHNA
ANJU VERMA

.... Petitioners

Through: Mr. Khagesh B. Jha, Advocate

Versus

SCHOOL MANAGEMENT OF RING MIDWAYS SENIOR
SECONDARY PUBLIC SCHOOL AND ANRRespondents

Through: Mr. Rajesh Kumar and Mr.
Avinash Kumar, Advocates for respondent No.1
Mr. Gautam Narayan, ASC with Mr. Abhinav
Goyal, Advocate for respondent-GNCTD

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. In the above-captioned five petitions, challenge is to orders of 30th January, 2016 vide which petitioners' Representation seeking back-wages stands declined by respondent-School while observing that it would be

difficult for the existing Managing Committee of respondent-School to consider petitioners' Representation in light of their letter of 25th May, 2015. Vide aforesaid letter of 25th May, 2015, authority of the existing Managing Committee was challenged. It is also noted in impugned orders of 30th January, 2016 that upon an inspection conducted by respondent-*Directorate of Education*, it was reported that the appointment of petitioners is not as per *the Delhi School Education Act and Rules, 1973*. Impugned orders proceed on the premise that payment of back-wages for the period petitioners had remained absent from duty cannot be granted, as petitioners have not been exonerated of the allegations made against them and further inquiry is to be conducted.

2. Since the challenge to impugned orders in these petitions is on identical grounds, therefore, with the consent of learned counsel for the parties, these petitions have been heard together and are being decided by this common order.

3. Learned counsel for petitioners assails impugned orders of 30th January, 2016 on the ground that petitioners cannot be treated to be absent from duty as they were not allowed to work and it is not the case of respondent-School that petitioners were gainfully employed elsewhere. It is submitted on behalf of petitioners that since reinstatement has been already ordered, therefore, respondent-School is not justified in denying back-wages on the plea that petitioners have not been exonerated of the allegations against them. As regards the challenge to the constitution of existing Managing Committee, it is the submission of petitioners' counsel that denial of back-wages cannot be justified on this plea as petitioners'

Representation had to be considered in light of Tribunal's order of 15th April, 2015. Thus, quashing of impugned orders is sought.

4. On the contrary, learned counsel for respondent-School submits that petitioners have not been fully exonerated and so, they are not entitled to back-wages. Learned counsel for respondent-*Directorate of Education* submits that the report of respondent-*Directorate of Education* in respect of appointment of some teachers being not valid, is not in particular reference to petitioners, as no names are mentioned in the report of Directorate of Education.

5. Upon hearing and on perusal of impugned orders and the material on record, I find that once reinstatement of petitioners has been ordered by the Delhi School Tribunal and the said order has attained finality, then there cannot be denial of back-wages on the ground that petitioners have not been exonerated of the allegations made against them. The inquiry regarding payment of back-wages is to be conducted by respondent-School on the aspect of petitioners being gainfully employed elsewhere or not. Whether petitioners were absent from duty or they were not allowed to work, is an aspect which ought to be the subject matter of inquiry. Respondent-School is therefore required to reconsider petitioners' Representation *dehors* the challenge to the existing Managing Committee as during the course of hearing, petitioners' counsel had not insisted upon the composition of the Managing Committee.

6. In light of aforesaid, impugned orders of 30th January, 2016 are hereby quashed with direction to respondent-School to reconsider petitioners' composite Representation of 25th May, 2015 (*Annexure P-4*)

and to pass a speaking order thereon, within a period of eight weeks and to convey its fate to petitioners within two weeks thereafter, so that petitioners may avail of the remedies as available in law, if need be.

7. With aforesaid directions, these petitions are accordingly disposed of.

(SUNIL GAUR)
JUDGE

MAY 01, 2018

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