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

+ **W.P.(C) 4318/2019 & CM APPLN. 19179/2019**

**MANAGEMENT COMMITTEE OF M/S BALVANTRAY MEHTA
VIDYA BHAWAN ANGURIDEVI SHERSINGH MEMORIAL
ACADEMY AND ANR** Petitioners

Through **Ms. Meenkashi with Mr. S. N. Kalra,
Advts.**

versus

BHUWAN CHANDRA PANDEY AND ANR. Respondents

Through **Mr. Rishi Manchanda, Adv. for R-1
with respondent no.1 in person
Mr. Vivek Gurnani for Md. Zoheb
Hossain, Addl. Standing Counsel for
GNCTD for R-1**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% 26.04.2019

CAV 428/2019

Since Mr. Rishi Manchanda, learned counsel for respondent no.1 has put in appearance on behalf of the Caveator, the Caveat is discharged.

W.P.(C) 4318/2019

Vide the present petition, petitioner has challenged the order dated 14.03.2019 passed in Appeal No. 23/18 by Delhi School Tribunal, whereby the appeal filed by respondent no.1 has been allowed.

Case of the petitioner is that respondent no.1 was appointed as per letter dated 24.03.2017 for a period of one year and his services were terminated during the probation period, because his conduct and

performance was not satisfactory and there was absence of good conduct with friends, parents and teachers in adverse to the terms and conditions of the appointment letter.

It is an admitted fact that the Management Committee of the petitioner before terminating respondent no.1 has not taken prior permission in terms of Section 8 (3) r/w Rule 105 of Delhi School Education Act & Rules, 1973 despite order/circular dated 20.05.2016.

Learned counsel appearing on behalf of the petitioner has relied upon judgment in the case of ***Sushil Kumar Sen Vs. State of Bihar*** decided on 17.03.1995 and ***Kailash Vs. Nanhku & Ors.*** passed on 06.04.2005 by the Hon'ble Supreme Court.

However, in the case of ***Miss Raja Rani Soni Vs. Air Officer Incharge Administration & Anr.,*** AIR 1990 Supreme Court 1305, it was held that recognized private school of Delhi, whether aided or otherwise are governed by the provisions of the Delhi School Education Act & Rules, 1973.

Accordingly, the Management is under statutory obligation to uniformly apply the provisions of the said Act and Rules to the teachers employed in the school. When an authority is required to act in a particular manner under a statute, it has no option but to follow the statute.

Prior to terminating the services of respondent no.1, the petitioner has to obtain approval of the Director of Education under Section 8(3) of Delhi School Education Act & Rules, 1973 r/w Rule 105 of the Delhi Education School Act & Rules, 1973 which the petitioner has failed to do.

It is an admitted fact that prior permission to Director of Education was not taken. Accordingly, the cases relied –upon by the petitioner are not

relevant in the present case.

I find no perversity in the order dated 14.03.2014 passed by the Delhi School Tribunal. I find no merit in the present petition, the same is dismissed.

Pending application also stands disposed of.

The judgments relied upon by the petitioner is of no help in the facts and circumstances of the present case.

SURESH KUMAR KAIT, J

APRIL 26, 2019

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