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

+ W.P.(C) 6874/2018

MANAGING COMMITTEE ST. SOPHIA SR. SECONDARY
SCHOOL

..... Petitioner

Through: Mr. Sanat Kumar, Sr. Advocate with
Mr. Anish Chawla and Mr. Siddarth
Bambha, Advocates.

versus

ANITA THUKRAL & ORS

..... Respondents

Through: Mr. Nalin Tripathi and Ms. Chanchal
Sharma along with respondent No. 1
in person.

Mr. Amit Bansal and Ms. Seema
Dolo, Advocates for R-2.

Ms. Avnish Ahlawat, Standing
Counsel for R-3.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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24.01.2019

1. Vide the present petition, the petitioner has challenged the order dated 01.06.2018, passed by Delhi School Tribunal in Appeal No. 06/2015, whereby the appeal filed by the respondent No. 1 has been allowed while setting aside impugned order dated 27.11.2014 whereby the said respondent was terminated from the service.

2. Learned Senior counsel appearing on behalf of the petitioner submits that as per Rule 118 of Delhi School Education Act & Rules, 1973 a nominee of the Director, in case of an aided school or a nominee of the

appropriate authority, in case of an unaided school is required to constitute disciplinary authority. It is admitted before the Tribunal that no request was made by the school to nominate the representative of the Directorate of Education in the Disciplinary Authority. Accordingly, the learned Tribunal has opined as under:-

“Respondent School has produced minutes of meeting of disciplinary authority dated 21.06.2014 and 22.11.2014. In both these minutes of meeting, no nominee of Directorate of Education was present. Respondent School has not produced the relevant minutes of meeting of the Managing Committee to prove as to how the disciplinary authority was constituted without the nominee of Directorate of Education. In these circumstances, it is not clear as to how and in which manner the disciplinary authority was constituted. However from the minutes of meeting of disciplinary authority dated 21.06.2014 and 22.11.2014, it is clear that nominee of Directorate of Education was not there. Thus it appears that disciplinary authority has not been constituted according to the provisions of DSEAR. In these circumstances, all the proceedings conducted by the illegally constituted disciplinary authority are also illegal and contrary to the law. In view of above discussion, this Tribunal is of opinion that the impugned order 27.11.2014 is illegal hence the same is set aside.”

3. Learned Senior counsel further submits that the learned Tribunal ought to have remanded the case for fresh inquiry, if any, illegality has taken place in passing the impugned order, instead, the learned Tribunal quashed the order dated 27.11.2014.

4. To strengthen his arguments, learned Senior Counsel for the petitioner has relied upon the case of *The Chairman, Ryan International School & Ors. vs. Dinesh Singh Rawat & Anr. decided in W.P.(C) 1298/2017* dated 16.05.2017 and the case of *The Management of Rukamani Devi Jaipuria*

Public School vs. The Directorate of Education & Anr. 2018 (3) SLR 481, whereby this Court remanded the case by giving liberty to the management to conduct and conclude de novo inquiry fresh within the time bound manner.

5. I note that in both the aforesaid cases, this Court has recorded that the charges against the delinquent Officer were of a serious nature and cannot be overlooked. Accordingly, while allowing the petition filed by the school authority directed the authority to conduct the inquiry afresh within the time bound manner.

6. In the present case, the charges against the petitioners are as under:-

“Articles of Charge and the statement of the imputations of misconduct or misbehaviour

Article I

That Ms. Anita Thukral, PGT (English) has deliberately extended her tenure for evaluation duty beyond 10 days without any permission from the competent authority.

Article II

That the said Ms. Anita Thukral, PGT (English) kept on teaching from the novel of the last session despite being aware of the fact that the syllabus has been changed with this session.

Article III

That the said Ms. Anita Thukral, PGT (English) has indulged herself in demoralizing, insulting and ignoring weak students during the last session.

Article IV

That the said Ms. Anita Thukral, PGT (English) gave question paper of Class-II to the student of Class-I student Master Vipul and allowed the students to leave the class rooms before the scheduled time, i.e. 10.15 am.”

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7. The Inquiry Officer submitted its report dated 05.11.2014. On perusal of the said inquiry report, the Inquiry Officer has discussed the evidence advanced against Article I in length but against Article II to IV, the Inquiry Officer has reported as under:-

"Article II

The Principal in her statement has informed that Ms. Anita Thukral, PGT (English) had been apprised of change of novel of Class XII after her joining the school on 05.05.2014 but CO deliberately continued to teach from the previous session's novel until she was issued a memorandum in writing on 20.05.2014 on the face of which the CO remarked that the change of Novel has been conveyed to the students.

The School Principal informed that Ms. Thukral did not even bother to interact with the other PGT (English) of the school about what is being taught in the classes in her absence. This indifferent attitude of CO towards her duty shows her negligence and nature of carelessness.

Article III

The minutes of PTA meeting held on 27.12.2013 (enclosed with the charge sheet) shows that parents have complained that CO-Ms. Anita Thukral, PGT(English) has indulged herself in demoralizing, insulting and ignoring weak students. One of the witnesses-Mrs. Jessy Thampi has given her written statement that she had to discontinue her child namely - Jithin Thampi after completing Class X in this school in the year 2014 due to the demoralizing and rude behaviour of Ms. Anita Thukral. The CO has also been issued the memorandum on 28.12.2013 and on 06.01.2014 in this regard. One more complaint has also been received from the students of Class XII B that the behaviour of Ms. Anita Thukral is not good with the students and she also does not clear their concepts due to which they have to take extra tuition from the Coaching Centre outside. The CO has totally

denied this charge on the ground that the complaint is false and fabricated and asked to show her the same in original. The PO has shown the complaint in original to the undersigned which seems to be genuine as the same has also been countersigned/received by the Principal.

Article IV

Ms. Anita Thukral, PGT (English) has been deployed the duty of Invigilator for the SA-I Examination conducted for the session 2013-14 on 24.09.2013 and while distributing the question papers in the class room, Ms. Anita Thukral, PGT (English) gave question paper of Class II to the student of Class I-Master Vipul which resulted into complete black out for the student and he remained unable to attempt the paper. The answer sheet of Master Vipul, attached with the charge sheet proves the same."

8. On perusal of the report of the Inquiry officer on Article II, III & IV, it appears that no strong evidence has come on record to prove the aforesaid charges in the enquiry proceedings. Therefore, in this case, it cannot be said that the charges were serious against the Respondent No. 1 and the matter required to be remanded to the Disciplinary Authority to conduct a fresh inquiry in a time bound manner.
9. Since the impugned order dated 27.11.2014 has already been set aside by the Tribunal and it is an admitted fact that no request was made by the school to nominate the representative of the Directorate of Education in the Disciplinary Authority. Thus, admittedly, the petitioner has violated Rule 118 of Delhi School Education Rules.
10. In view of the above, the judgments cited by the counsel appearing on behalf of the petitioner has no relevance and finding no merits in the present petition. However, liberty is given to the petitioner to initiate de novo

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enquiry afresh, if deems fit as per rules and the laws, but after the order of reinstatement of the respondent no.1.

11. The petition is, accordingly, dismissed.



SURESH KUMAR KAIT, J.

JANUARY 24, 2019

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