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

+ **W.P.(C) 2706/2024**

**MANAGING COMMITTEE, MAZHARUL ISLAM SECONDARY
SCHOOL, DELHI** Petitioner

Through: Mr. Zeyaul Haque, Advocate.

versus

DIRECTORATE OF EDUCATION

..... Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates.

Mr. I. Ahmed, Advocate for Intervenor with Mr. Rahimuddin, Secretary.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **28.02.2024**

CM APPL. 11035/2024 (Exemption)

Allowed, subject to all just exceptions.

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1. The Petitioner/School has approached this Court challenging the Order dated 05.02.2024 conveying the approval of the Respondent that the Senior-most teacher has been declared as School In-charge of the Mazharul Islam Secondary School consequent upon the retirement of Mr. Imtiaz Ahmed on 31.01.2024 after attaining the age of superannuation.

2. It is stated by the learned Counsel for the Petitioner that the aforesaid Order dated 05.02.2024 is contrary to the Proviso to Rule 110 (2) Delhi School Education Rules, 1973. Rule 110 of the said Rules, 1973 reads as

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under:

“110. Retirement age

(1) Except where an existing employee is entitled to have a higher age of retirement, every employee of a recognised private school, whether aided or not, shall hold office until he attains the age of 58 years.

Provided that the managing committee may grant extension to a teacher for a period not exceeding two years in the aggregate, if in the opinion of the managing committee such teacher is fit for such extension and has no mental or physical incapacity which would disentitle him to get such extension:

Provided further that no such extension shall be granted in the case of a teacher of an aided school except with the previous approval of the Director:

(2) Notwithstanding anything contained in sub-rule (1), every teacher, laboratory assistant, librarian. Principal or Vice-Principal employed in such school shall continue to hold office until he attains the age of 60 years:

Provided that where a teacher, Principal or Vice Principal attains the age of superannuation on or after the 1st day of November of any year, such teacher, Principal or Vice Principal shall be re-employed upto the 30th day of April of the year immediately following.

(3) Notwithstanding anything contained in sub-rule (1) and sub-rule (2) where a teacher, Principal or Vice Principal has obtained National or State Award for rendering meritorious service as a teacher. Principal or Vice Principal or where he has received both the National and State Awards as aforesaid, the period of service of such teacher. Principal or Vice Principal



may be extended by such period as the Administrator may, by general or special order, specify in this behalf.”

(emphasis supplied)

3. A perusal of Rule 110 (2) indicates that where a Teacher, Principal or Vice Principal attains the age of superannuation on or after the 1st day of November of any year, such teacher, Principal or Vice Principal shall be re-employed upto the 30th day of April of the year immediately following.
4. Applying the aforesaid Rule, Mr. Imtiaz Ahmed should be permitted to continue in the school upto 30.04.2024. The Order dated 05.02.2024 is set aside.
5. Learned Counsel appearing for the New Management Committee of the School states that Mr. Tasleem Ahmed Rehmani who has signed the affidavit is not competent to file the instant writ petition.
6. Article 14 of the Constitution of India casts a duty upon the State to ensure that any Teacher, Principal or Vice Principal, who attains the age of superannuation on or after the 1st day of November of any year, must be permitted to continue till the month of April of the succeeding year. This Court is inclined to entertain the writ petition without going into the question as to whether the affidavit has been filed by a competent person or not.
7. In view of the above, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 28, 2024

S. Zakir

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