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

+ **W.P.(C) 16811/2024 & CM APPL. 71140/2024**

DR ASHWANI KUMAR

.....Petitioner

Through: Mr. Nikhilesh Kumar, Advocate.

versus

M. L. KHANNA DAV PUBLIC SCHOOL

AND ORS

.....Respondents

Through: Mr. Anurag Lakhotia, Advocate for
R-1 and R-2.

Ms. Latika Choudhury, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

16.12.2024

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1. This writ petition has been preferred on behalf of the Petitioner laying a challenge to suspension order dated 18.11.2024 passed by Respondents No. 1 and 2/M. L. Khanna DAV Public School ('School') with all consequential benefits.

2. Petitioner was initially appointed as Primary Teacher with the School on 16.07.2009 and was later appointed as PGT (Physical Education). Petitioner avers that in his long association with the School there was no complaint against him and his service was unblemished until 30.04.2024 when a charge sheet was issued against him levelling allegations of corporal punishment on the students, being rude, using mobile phone in the classroom etc. The inquiry proceedings are on going and in the meantime, vide order dated 18.11.2024, the School suspended the Petitioner in contemplation of a second disciplinary proceeding, constraining the Petitioner to approach this Court.



3. Learned counsel for the Petitioner submits that the impugned suspension order is passed in violation of Section 8(4) of Delhi School Education Act and Rules, 1973 ('DSEAR') inasmuch as no prior approval was taken from Respondent No. 3/Directorate of Education ('DoE') before suspending the Petitioner. It is urged that no doubt the Managing Committee of the School has the power to suspend an employee with immediate effect on account of an imminent necessity due to reason of gross misconduct but in such an eventuality, suspension can remain in force only for 15 days unless it is approved by the Director before expiry of the said period and this law is no longer *res integra*. Reliance is placed on the judgment of the Full Bench of this Court in ***Delhi Public School & Anr. v. Director of Education & Ors., 2002 SCC OnLine Del 1086*** and another judgment of this Court in ***S.S. Tyagi v. Ravindra Public School and Another, 2020 SCC OnLine Del 2084***.

4. Mr. Anurag Lakhotia, learned counsel appearing on behalf of the School fairly concedes that the impugned suspension order cannot be sustained in light of Section 8(4) of DSEAR and the judgments relied upon by the Petitioner. He, however, submits that on 19.11.2024, post the passing of the impugned suspension order, School sought approval of the DoE for suspending the Petitioner and the same has been granted on 12.12.2024 and therefore, the School should be permitted to proceed further in accordance with the judgment of the Full Bench of this Court in ***Delhi Public School (supra)*** as well as the judgment of the learned Single Judge in ***Sarika Prasad v. Delhi Public School and Others, 2021 SCC OnLine Del 5218***.

5. Ms. Latika Choudhury, learned counsel for DoE supports the case of the Petitioner and submits that the suspension order was passed without



prior approval of DoE *albeit* subsequent to the passing of the impugned order, approval was sought by the School and was granted on 12.12.2024.

6. Heard learned counsels for the parties and examined their rival contentions.

7. In view of the judgments of the Full Bench in ***Delhi Public School (supra)*** and in ***S.S. Tyagi (supra)***, the impugned suspension order cannot be sustained as the same was passed without prior approval of DoE. Accordingly, this writ petition is allowed quashing the impugned order dated 18.11.2024 with consequential benefits. This would however not preclude the School to proceed further as per law and in light of provisions of Section 8(4) of DSEAR as well as judgment in ***Delhi Public School (supra)***.

8. Writ petition stands disposed of along with pending application.

JYOTI SINGH, J

DECEMBER 16, 2024
Shivam