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

+ W.P.(C) 17585/2025, CM APPL. 72604/2025 & CM APPL. 72605/2025

SOMA BHADRA

.....Petitioner

Through: Ms. Shikha Sharma, Mr. Khagesh Jha
& Ms. Adeya Bhadra, Advs.

versus

PRUDENCE SCHOOL SECTOR-16B DWARKA

AND ORS

.....Respondents

Through: Mr. Gaurav Dhingra & Mr. Shashank
Singh, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

19.11.2025

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1. This petition is filed seeking quashing of order dated 25.08.2025 replacing the petitioner with a qualified teacher.
2. Learned counsel for respondent no. 3- Directorate of Education, appearing on advance notice raises a preliminary objection that the petitioner has a remedy of statutory appeal.
3. Learned counsel for the petitioner submits that there is a violation of principles of natural justice and the provisions of Section 8(2) of Delhi School Education Act, 1973 (for short 'the Act') was not complied with. The case set up by the petitioner is that she subsequently acquired the required qualification. Reliance is placed upon the decision of the full bench of this Court in the case of *Presiding Officer Delhi School Tribunal v. Govt. of NCT of Delhi 2011(124) DRJ 513(FB)* to contend that the remedy before the Appellate Authority is not efficacious.



4. The petitioner was appointed as a music teacher initially on 10.05.2010. She resigned from the post with effect from 30.09.2014. She was re-appointed on 02.01.2015 and was possessing Junior Diploma with distinction from Prayag Sangeet Samiti, Allahabad. Later it revealed that the petitioner was not possessing the essential qualification at the time of appointment and the proceedings were initiated by issuance of show-cause notice (for short 'SCN').

5. The respondents proceeded relying upon Rule 117 of Delhi School Education Rules, 1973 to contend that a replacement of an unqualified teacher with a qualified teacher does not tantamounts to penalty and the provisions of Section 8(2) of the Act and the process of enquiry is not required.

6. The writ jurisdiction inspite of availability of a statutory remedy of appeal is exercised in exceptional cases as carved out by Supreme Court in ***"Whirlpool Corporation v. Registrar of Trademarks (1998) 8 SCC 1"***. It was held:

“Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this



point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

7. No case is made out for bringing the case within the exceptions for interference in writ jurisdiction. The impugned order was passed after issuance of SCN. The case set up by the respondent is that the provisions of Section 8(2) of the Act shall not apply in such case.
8. Learned counsel for the petitioner submits that no SCN was issued and this itself raises a disputed question of fact.
9. The reliance of the learned counsel for the petitioner on decision of the full bench of this Court in the case of *Presiding Officer Delhi School Tribunal v. Govt. of NCT of Delhi 2011(124) DRJ 513(FB)* shall not enhance the case of the petitioner. The issue dealt with by the full bench was as to whether the tribunal had jurisdiction to deal with all the grievances of the school teachers and employees including minor penalties.
10. Section 8(3) of the Act provides a remedy of appeal against the dismissal, removal or reduction in rank. The case in hand is covered by the phrase “removal” and the petitioner has a remedy of appeal.
11. The writ petition is dismissed relegating the petitioner to the appellate remedy.
12. It is clarified that this Court has not expressed any opinion on the merits of the case. The reasoning given above was only to deal with the alternative remedy.

AVNEESH JHINGAN, J

NOVEMBER 19, 2025/‘JK’