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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 404/2024 & CM APPL. 1822-1824/2024

GURVINDER SINGH SAINI

.....Petitioner

Through: Mr. Nikhilesh Kumar, Advocate.

versus

**SCHOOL MANAGEMENT OF GURU HARKRISHAN PUBLIC
SCHOOL AND ORS**

.....Respondents

Through: Mr. Abinash K. Mishra, Mr. Gaurav
Kr. Pandey, Advocates for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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04.05.2026

1. This petition is directed against the order dated 17th November, 2023 passed by the Disciplinary Authority, based on an inquiry report arising out of disciplinary proceedings initiated against the Petitioner.
2. A perusal of the impugned order reveals that the Disciplinary Action Committee ["DAC"], whose decision was subsequently approved by the School Management Committee ["SMC"], considered three Articles of Charge and imposed the following penalties:

"ARTICLE- I

- 1) *"Removal from the service, which shall not be a disqualification for future employment in any other recognized Private school..." as per 117(b) (iii) of DSEAR 1973, to the Charged Official for acts with regard to the Article No.1 of the charge Memo No. 16032 dated 14.07.2017 which has been proved in the Inquiry Report.*

ARTICLE- II

- 2) *Minor penalty of "Censure" to the Charged Official as per 117(a) (i) of DSEAR 1973 for the acts with regard to the Article No.2 of the Charge Memo dated 14.07.2017 which has been proved in the Inquiry Report.*

ARTICLE- III

- 3) *"Reduction in Rank" as per 117(b) (i) of DSEAR, 1973 be imposed on Charged Official from the non-existing post of the Asstt. Director Sports. Accordingly, the excess salary/ emoluments, if any, be recovered or adjusted*



against the Charged Official. This penalty should be treated as effective with effect from the date since the Charged Official has been functioning as Asstt. Director Sports.

Whereas, the said decisions of DAC were forwarded to School Management Committee (SMC) also and the SMC vide its meeting held on 16.11.2023 decided to implement the decision of DAC dated 07.11.2023.

Whereas in view of the above, the decisions of DAC taken on 07.11.2023 have been decided to be implemented by the SMC vide its meeting held on 16.11.2023 for imposing major penalty of "Reduction in Rank" as per 117(b) (i) of DSEAR, 1973 and hence the said penalty is hereby imposed on the said Mr. Gurvinder Singh Saini for reducing his rank from the non-existing post of the Asstt. Director Sports to the earlier post of P.E.T. Accordingly, the decision of DAC taken on 07.11.2023 for the recovery of the excess salary/emoluments, if any, is also decided to be implemented by imposing the said penalty with immediate effect. This penalty should be treated as effective with effect from the date since when the said Mr. Gurvinder Singh Saini has been functioning as Asstt. Director Sports.

Whereas in view of the above, the decision of DAC taken on 07.11.2023 has been decided to be implemented by the SMC vide its meeting held on 16.11.2023 for imposing minor penalty of "Censure" to the Charged Official, under rule 117(a) (i) of DSEAR 1973 for the acts with regard to the Article No.2 of the Charge Memo dated 14.07.2017, is hereby decided to be implemented and imposed on the said Mr. Gurvinder Singh Saini with immediate effect.

Whereas in view of the above, the decision of DAC taken on 07.11.2023 has been decided to be implemented by the SMC vide its meeting held on 16.11.2023 under rule 117(b) (iii) of DSEAR 1973 with regard to his removal from service of this school. Accordingly Mr. Gurvinder Singh Saini is hereby removed from service of this school with immediate effect and as such he is hereby relieved from the post of Asstt. Director Sports [and/or relieved from the post of P.E.T after the imposition of penalty under rule 117(b) (i) of DSEAR 1973], GHPS Vasant Vihar, New Delhi with immediate effect i.e. w.e.f. 17.11.2023.

Now, therefore, in accordance with the unanimous decision of the DAC and SMC, the above said penalties in respect of Article I, II, III respectively are imposed upon Mr. Gurvinder Singh Saini with immediate effect.

Whereas in view of the decisions taken under rule 117(b) (iii) of DSEAR 1973 on Article of Charge-I, the penalty under rule 117(b) (i) of DSEAR 1973 shall be treated as deemed prior in time then the imposition of penalty under rule 117(b) (iii) of DSEAR 1973.

Accordingly Mr. Gurvinder Singh Saini is hereby requested to settle his account, if any, in terms of the decisions taken by DAC which have been decided to be implemented upon by SMC of the school also.

The present communication has been issued by the Principal cum Manager of the School in terms of the authority and instructions contained in the decisions taken by DAC/SMC of the school."



3. A reading of the aforesaid extract indicates that the Petitioner has been removed from service and also visited with the penalty of reduction in rank under Rule 117(b)(i) of the Delhi School Education Rules, 1973 [*“DSE Rules”*], both of which constitute major penalties. Ordinarily, an order imposing such penalties would be amenable to challenge before the Delhi School Tribunal [*“DST”*] in terms of Section 8(3) of the Delhi School Education Act, 1973 [*“DSE Act”*].

4. The Petitioner, however, asserts that he has no other efficacious remedy against the impugned order and, therefore, the present writ petition is maintainable. It is contended that since the impugned order also imposes a minor penalty of ‘*censure*’, the jurisdiction of the DST stands ousted, leaving the Petitioner with no remedy except to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. In support of this submission, reliance is placed on the decision of the Full Bench of this Court in ***Presiding Officer, Delhi School Tribunal v. Govt. of NCT of Delhi***¹.

5. Mr. Abinash K. Mishra, counsel for the Respondents, disputes the applicability of the aforesaid decision. He submits that the Full Bench ruling proceeds on an erroneous reading of Rule 120(3) of the DSE Rules. According to him, the said provision has been incorrectly recorded and relied upon, including in paragraph 26 of the decision, which reads as follows:

“We will be failing in our duty if we do not take note of the submission of Mrs. Avnish Ahlawat, learned counsel for the State, who has drawn our attention to Rule 120(3). The said Rule reads as follows:

“120(3) Any employee of a recognised private school who is aggrieved by any order imposing on him the penalty of compulsory

¹ 2010 SCC OnLine Del 2924.



retirement or any minor penalty may prefer an appeal to the Tribunal."

In the said rule, there is a stipulation with regard to minor penalties"

[Emphasis supplied]

6. He submits that, in fact, Rule 120(3) of the DSE Rules reads as under:

"120(3) Any employee of a recognised private school who is aggrieved by any order imposing on him the penalty of compulsory retirement or any major penalty may prefer an appeal to the Tribunal."

[Emphasis supplied]

7. On this basis, it is argued that the Full Bench decision proceeds on an incorrect premise in assuming that minor penalties are not amenable to the jurisdiction of the DST.

8. Mr. Mishra further fairly submits that, in any event, the minor penalty could not have been imposed in the same order along with major penalties, in view of the decision of the Supreme Court in ***Union of India & Anr. v. S.C. Parashar***². He contends that, once this position in law has been clarified, the surviving major penalties are squarely amenable to the jurisdiction of the DST and the Petitioner ought to be relegated to the said remedy.

9. In light of the foregoing, and particularly the stand taken by counsel for the Respondents that the minor penalty imposed in respect of Article II does not survive for independent consideration, this Court is of the view that the controversy essentially relates to the imposition of major penalties, namely, removal from service and reduction in rank. The same squarely fall within the jurisdiction of the DST under Section 8(3) of the DSE Act.

10. Accordingly, without expressing any opinion on the merits of the case, and having regard to the availability of an efficacious alternative

² (2006) 3 SCC 167.



remedy, this Court is not inclined to entertain the present petition. All rights and contentions of the parties are left open to be urged before the DST.

11. At this stage, Mr. Nikhilesh Kumar, counsel for the Petitioner, submits that the present proceedings have remained pending for a considerable period and that relegating the Petitioner to the DST may result in further delay. He accordingly seeks appropriate directions for expeditious disposal.

12. In view of the above, the present petition is disposed of with the following directions:

- (i) The Petitioner shall file an appeal before the DST on or before 11th May, 2026;
- (ii) Upon such appeal being filed, Mr. Abinash K. Mishra, counsel for the Respondents, undertakes to ensure that a reply thereto is filed within a period of one week from the date of service;
- (iii) Considering that this petition has remained pending for some time, the DST is requested to decide the appeal expeditiously;
- (iv) The period spent in prosecuting the present proceedings shall be excluded for the purposes of limitation. The Petitioner is at liberty to file an appropriate application under Section 14 of the Limitation Act, 1963 before the DST to seek such a relief.

13. With the above directions, the present petition, along with the pending applications, if any, is disposed of.

SANJEEV NARULA, J

MAY 4, 2026/ab