

(1990) 04 DEL CK 0028

In the Delhi High Court

Case No : Criminal Writ Petition No. 3102 of 1989

Akhtar Ali Siddiqui and Others

APPELLANT

Vs

Delhi Administration and Others

RESPONDENT

Date of Decision : 23-04-1990

Acts Referred:

Citation : (1990) 41 DLT 330 : (1991) 61 FLR 249

Hon'ble Judges : C.L. Choudhary, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : D. Gupta, A. Ahlawat and Chandershekharan, for the Appellant;

Judgement

B.N. Kirpal, J.

(1) Rule D.B. The challenge in this writ petition is to the selection of respondent No. 4 as the Principal of the School, namely, Anglo Arabic Senior Secondary School. There are a number of contentions raised, but we are not going into them because on the admitted facts the selection is vitiated for two reasons.

(2) The respondent school is an aided minority school and, Therefore, provisions of Rule 96 of the Delhi School Education Rules, 1973 are applicable. Rule 96(3) (a) stipulates the Selection Committee in case of recruitment of the head of the school. It inter alias provides that the chairman of the Managing Committee shall be one of the members of the Selection Committee. On the other hand. Rule 96(3)(b) which provides for Selection Committee in respect of appointment of a teacher (other than the head of the school) stipulates that the chairman or a number of the managing committee nominated by the chairman shall be one of the members. Reading Rule 96(3)(a) and (b) together it is evident that there is a clear distinction which has been made by the rule with regard to the constitution of the selection committee in the case of head of the school vis-a-vis a teacher. In our opinion, this has been rightly done because for appointment as a head of the school it is necessary that the chairman himself should be a member of the selection committee and not one of his nominees. The rules, unfortunately, are

silent as to what is to happen if a duly constituted selection committee is unable to meet in full force and one or more members are absent. Be that as it may, in the present case the chairman was not present in the selection committee meeting and a nominee of his was present. In our opinion, this action of the chairman was clearly contrary to the provisions of the Rule (3)(a) and, Therefore, the constitution of the selection committee itself was vitiated. Any selection made by such a committee will also be vitiated.

(3) Furthermore, our attention has been drawn to the fact that Rule 112(4) provides that in respect of the confidential reports of the teachers which are required to be recorded by the head of the school, the same shall be reviewed by the managing committee. We are informed that the practice which has developed in this school is that the managing committee does not review the ACRs except when there are adverse entries. This, in our opinion, is not the correct procedure. The review by the managing committee is mandatory and has to take place whenever the confidential reports are recorded.

(4) In the absence of proper confidential reports having been recorded and review by the managing committee and as the selection committee was not properly constituted, we have no option but to allow this writ petition and quash the appointment of respondent No. 4 as Principal of the school. The respondents should undertake the exercise and fill the post of the Principal in accordance with law, preferably, within a period of two months from today. During the interregnum interim arrangements shall be made by the respondent school by way of appointing an Acting Principal.

(5) There will be no order as to costs.