

(2018) 05 DEL CK 0016
In the Delhi High Court
Case No : W.P.(C) 9823 of 2016

AZAD DEVI ,SUNITA SETHI ,PRAKASH DAGAR ,KRISHNA,
ANJU VERMA

APPELLANT

Vs

SCHOOL MANAGEMENT OF RING MIDWAYS SENIOR
SECONDARY PUBLIC SCHOOL AND ANR

RESPONDENT

Date of Decision : 01-05-2018

Acts Referred:

Citation : (2018) 05 DEL CK 0016

Hon'ble Judges : SUNIL GAUR

Bench : Single Bench

Advocate : Khagesh B. Jha,Rajesh Kumar,Avinash Kumar, Gautam
Narayan,Abhinav Goyal

Final Decision : Disposed Of

Judgement

SUNIL GAUR ,J.

1.In the above-captioned five petitions, challenge is to orders of 30th January, 2016 vide which petitionersâ?? Representation seeking back-wages

stands declined by respondent-School while observing that it would be difficult for the existing Managing Committee of respondent-School to consider

petitionersâ?? Representation in light of their letter of 25th May, 2015. Vide aforesaid letter of 25th May, 2015, authority of the existing Managing

Committee was challenged. It is also noted in impugned orders of 30th January, 2016 that upon an inspection conducted by respondent Directorate of

Education, it was reported that the appointment of petitioners is not as per the Delhi School Education Act and Rules, 1973. Impugned orders proceed

on the premise that payment of back-wages for the period petitioners had remained absent from duty cannot be granted, as petitioners have not been

exonerated of the allegations made against them and further inquiry is to be conducted.Â

2.Since the challenge to impugned orders in these petitions is on identical grounds, therefore, with the consent of learned counsel for the parties, these petitions have been heard together and are being decided by this common order.Â

3.Learned counsel for petitioners assails impugned orders of 30th January, 2016 on the ground that petitioners cannot be treated to be absent from

duty as they were not allowed to work and it is not the case of respondent-School that petitioners were gainfully employed elsewhere. It is submitted

on behalf of petitioners that since reinstatement has been already ordered, therefore, respondent-School is not justified in denying back-wages on the

plea that petitioners have not been exonerated of the allegations against them. As regards the challenge to the constitution of existing Managing

Committee, it is the submission of petitionersâ?? counsel that denial of back-wages cannot be justified on this plea as petitionersâ?? Representation

had to be considered in light of Tribunal's order of 15th April, 2015. Thus, quashing of impugned orders is sought.Â

4.On the contrary, learned counsel for respondent-School submits that petitioners have not been fully exonerated and so, they are not entitled to back-

wages. Learned counsel for respondent-Directorate of Education submits that the report of respondent-Directorate of Education in respect of

appointment of some teachers being not valid, is not in particular reference to petitioners, as no names are mentioned in the report of Directorate of

Education.

5.Upon hearing and on perusal of impugned orders and the material on record, I find that once reinstatement of petitioners has been ordered by the

Delhi School Tribunal and the said order has attained finality, then there cannot be denial of back-wages on the ground that petitioners have not been

exonerated of the allegations made against them. The inquiry regarding payment of back-wages is to be conducted by respondentSchool on the aspect

of petitioners being gainfully employed elsewhere or not. Whether petitioners were absent from duty or they were not allowed to work, is an aspect

which ought to be the subject matter of inquiry. Respondent-School is therefore required to reconsider petitionersâ?? Representation dehors the

challenge to the existing Managing Committee as during the course of hearing,

petitioners' counsel had not insisted upon the composition of the Managing Committee.

6. In light of aforesaid, impugned orders of 30th January, 2016 are hereby quashed with direction to respondent-School to reconsider petitioners' composite Representation of 25th May, 2015 (Annexure P-4) and to pass a speaking order thereon, within a period of eight weeks and to convey its

fate to petitioners within two weeks thereafter, so that petitioners may avail of the remedies as available in law, if need be.

7. With aforesaid directions, these petitions are accordingly disposed of.