
(2011) 01 RAJ CK 0017
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2724 of 1997

Bhagat Arya

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 25-01-2011

Acts Referred:

Rajasthan Non-Government Educational Institutions Act, 1989 — Section 18

Citation : (2011) 2 RLW 1569

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Advocate : Ashok Gaur, with Ashwani Jaiman, for the Appellant; Ganesh Meena, Govt. Counsel and Sandeep Kumar Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by Bhagat Ram Arya assailing the judgement of the Rajasthan Non-Government Educational Institutions Tribunal dated 28.4.1997 and the order passed by the respondent-Maharani Gayatri Devi Girls Public School (hereinafter referred to as "respondent-education institution") dated 23.11.1994 by which his services were terminated. Factual matrix of the case is that petitioner was appointed as a Peon with the respondent-education institution vide order dated 7.1.1983 initially for a period of six months from 1.1.1983 to 30.6.1983 on payment of consolidated salary of Rs. 330/- per month. It was stipulated therein that his services could be put to an end by notice of one month on either side. Petitioner however continued to serve the respondent-education institution thereafter for more than a decade. Petitioner was placed under suspension by order of the Principal dated 14.10.1994 with the stipulation that a disciplinary enquiry was contemplated against him. He was served with a charge sheet on 17.10.1994. Petitioner submitted a representation to the Principal of the respondent-education institution on 19.10.1994 requesting that the charge sheet served upon him is in english language and since he does not know english, therefore, he should be

supplied a charge sheet prepared in hindi language. Resultantly, a charge sheet prepared in hindi language was served upon the petitioner on 20.10.1994. There were three charges contained therein. Charge no. 1 was to the effect that petitioner while posted as Peon in the Girls Hostel of the school handed over a birthday card to one Kumari Sonakshi Ray, an inmate of the hostel and a student of 11th standard on 12.10.1994 while she was coming towards the hostel from school building. This card was given to her by petitioner in the presence of certain other students. Charge no. 2 was to the effect that the card given by the petitioner to the said girl contained indecent and objectionable material and words like "and my love remain with you" and "sweet something". On receiving that card, Kumari Sonakshi Ray got a mental shock. A class-IV employee was not accepted to give such a greeting card to an inmate of the hostel. Charge no. 3 was to the effect that petitioner by giving such greeting card to Kumari Sonakshi Ray misbehaved with her because he had no personal relation with that girl and neither was he related to her, nor was otherwise acquainted.

2. Petitioner submitted reply to the charge sheet on 26.10.1994 wherein he denied the charges and asserted that he was a simple person and was not much educated. He therefore should be given adequate opportunity to defend himself in accordance with principles of law and that defence nominee should be provided to him, was not accepted by the respondent-education institution. Petitioner then submitted a representation to the Principal of the respondent-education institution in which he mentioned that his father was also serving as a Class-IV employee with the same school and that he was born in school premises and was later on employed in respondent-education institution. Since he participated in the activities of the MGD School Employees Association and opposed some of the arbitrary actions of the management, a false case has been registered against him. The allegations are totally baseless. He demanded that information should be given to him as to under which provisions of the MGD Service Regulations 1990, the charge sheet has been served upon him. Petitioner thereafter again on 11.11.94 submitted a detailed reply to the charge sheet.

3. The Board of Governors of the respondent-education institution in its extraordinary meeting convened on 17.10.1994 after considering the reply of the petitioner dated 11.11.1994 unanimously decided that it was not in the interest of institution to continue the petitioner in the services. His services were therefore decided to be terminated with effect from 22.11.1994. Simultaneously, outstanding salary for the month of October and November, 1994 in the sum of Rs. 2500 and notice pay for six months in lieu of notice amounting to Rs. 14,628, thus a total sum of Rs. 17,128 was ordered to be paid to the petitioner for which pay order was sent to him with the aforesaid order. Petitioner filed an appeal against the aforesaid order before the Rajasthan Non-Government Educational Institutions Tribunal (for short - "the Tribunal") and the Tribunal by order dated 28.4.1997 dismissed the appeal filed by the petitioner. Hence this writ petition.

4. I have heard Shri Ashok Gaur, learned Senior Counsel assisted by Shri

Ashwani Jaiman for petitioner and Shri Ganesh Meena, learned Government Counsel of the respondent-State and Shri Sandeep Kumar Sharma for the respondent-education institution.

5. Shri Ashok Gaur, learned senior counsel appearing for the petitioner has argued that once the respondents initiated disciplinary proceedings against the petitioner by serving a charge sheet and even suspending the petitioner, they could not subsequently invoke provisions of clause (iii) of second proviso to Section 18 of the Rajasthan Non Government Educational Institutions, Act, 1989 (for short - "the Act"). A short cut method has been adopted by the employer only to get rid of the petitioner because they were unable and could not prove the charge against him in the regular disciplinary proceedings.

6. Shri Ashok Gaur, learned senior counsel for the petitioner has argued that the impugned order though apparently looks to be innocuous but in effect, it is a stigmatic order given the background in which this order has been passed on allegation of misconduct against the petitioner. It is argued that even according to clause (iii) of second proviso to Section 18 of the Act, the respondent-education institution was under an obligation to comply with three mandatory requirements namely; the decision to terminate/dispense with the service of the given employee has to be based on unanimous opinion of the managing committee that services of such employees cannot be continued without prejudice to the interest of the institution, secondly that services of such employee should be terminated after giving him six months' notice or salary in lieu thereof and thirdly and most importantly, the consent of the Director of Education is obtained in writing. All these conditions have to be satisfied simultaneously, only then the services of the petitioner could have been legitimately terminated. In the present case, even though the first two conditions may have been satisfied, but third condition that the consent of the Director of Education should be obtained in writing was not simultaneously satisfied. Such a condition may have been requested for earlier but eventually the Director, Primary and Secondary Education, Rajasthan, Bikaner has by its letter dated 24.1.1995 has granted the consent though describing the same as approval. Learned counsel submitted that while the first proviso to Section 18 postulates prior approval of the Director of Education in the matter of removal, dismissal or reduction in rank of an employee of a recognised institution, but in the (iii) clause of second proviso, the consent of Director, Education in writing is insisted upon. It is argued that approval in a given case can be ex-post facto approval as well, but the word consent by the very nature of the things implies that it has to be prior consent and unless such consent was obtained earlier in point of time, no order terminating services of employee can be authenticated.

7. Shri Ashok Gaur, learned senior counsel for petitioner further argued that in view of the Larger Bench decision of this Court in Central Academy Society Vs. Rajasthan Non-Government Educational Institutions Tribunal and Others, , all these three conditions should have been simultaneously satisfied. The Larger

Bench of this Court in *Central Academy*, supra also required an opportunity of hearing to be given to the affected employee before passing the order of his termination. The notice given to the petitioner prior to passing of aforesaid order was not in fact the notice contemplated by Section 18 in its second proviso, but was actually a charge sheet to which the petitioner submitted his reply but that reply to the charge sheet could not be taken as a reply to the simple notice envisaged therein. It is further argued that respondent-education institution has taken into consideration another notice given to the petitioner by the management on 23.4.1991 on alleged misconduct with a student and on that basis they have decided to terminate services of the petitioner by dispensing with the enquiry. It is argued that the past conduct of an employee cannot be taken into consideration for dispensing with his services if he has not been given an opportunity in a subsequent proceeding to explain his such conduct. In support of this argument, learned counsel relied on the judgement of Supreme Court in *Mohd. Yunus Khan Vs. State of U.P. and Others*, .

8. It is contended that petitioner is a semi literate person and considering his status that he is merely a Class-IV, it cannot even be imagined that he would indulge in such a daring activity of handing over a greeting card of this nature to an inmate of the girls hostel. Petitioner has been falsely implicated in this matter. Had he been given opportunity to defend himself in full fledged disciplinary enquiry, he would have definitely come clean. Considering all these submissions, the respondent-education institution at one stage before the Tribunal offered reinstatement to the petitioner on half salary, which was not acceptable to the petitioner. If the respondent-education institution could not prove the guilt of the petitioner directly in the disciplinary proceedings, therefore, his services could not be allowed to be terminated indirectly. The Tribunal thus has erred in law in not objectively considering all these arguments. It is therefore prayed that the judgement of the Tribunal dated 28.4.1997 and the termination order dated 23.11.1994 shall be quashed and set aside.

9. Shri Sandeep Kumar Sharma, learned counsel for the respondent-education institution argued that there is no question of victimization or false implication of the petitioner. It was, in fact, petitioner who gave the greeting card to a student of 11th standard. Besides, petitioner was engaged as a Peon in the hostel of which, the said student Kumari Sonakshi Ray was an inmate. The respondent institution is a prestigious institution of the State where a large number of students are left in the care of the management in the hostel. The act of the petitioner was highly objectionable. Although, initially the disciplinary enquiry was started against the petitioner, but such enquiry was disposed of owing to the fact that enquiry could not be continued without employee being continued in service of respondent-education institution, which is a residential girls school. His continuation in service would have been prejudicial to the interest of the institution. Moreover, the charge of misconducted was related to misbehaviour with a girl student. Continuation of that disciplinary enquiry would have necessitated production of concerned girl student as a witness. A minor girl

student in that event would have been required to appear as a witness against the petitioner and further she might have been required to be subjected to cross examination, which would have seriously spoiled her reputation and exposed her to all kind of gossiping. This would have also brought a bad name to the institution. This could not be done without the consent of the parents of the student. Learned counsel submitted that earlier also a written warning was given to the petitioner on 23.4.1991 with regard to a similar misconduct or misbehaviour with a girl student. The consent of the Director was immediately requested for and eventually the Director by his letter dated 24.1.1995 sent the letter of consent to the Principal of the respondent-education institution. It was not necessary to provide opportunity of hearing because in this case, notice pay of six months was given to the petitioner which is in lieu of the notice envisaged in clause (iii) of second proviso to Section 18 of the Act. The Larger Bench decision of this Court in Central Academy Society, supra has not held that even after notice pay is given, an opportunity of hearing would be necessary to be given. Learned counsel referred to the discussions made by the Tribunal in its judgement and argued that even if earlier the charge sheet was served on the petitioner, but eventually the order that was passed was an order of termination simpliciter, the Tribunal has rightly dismissed the appeal considering all the circumstances in their entirety including previous conduct of the petitioner and also the fact that the Director of Primary and Secondary Education has also granted his consent to the termination of the services of the petitioner. It is therefore prayed that the writ petition be dismissed.

10. Shri Ganesh Meena, learned Government Counsel appearing for the respondent-State argued that the conduct of the petitioner this time and on the earlier occasion justified action of the management in deciding to invoke clause (iii) of second proviso to Section 18 of the Act to summarily dispense with his services. A man of his character was not fit to be retained in a residential girls school. Learned counsel submitted that the word "prior" has been used in the first proviso to Rule 18 so as to provide that prior approval of the Director of Education or an officer authorised by him would be necessary for passing the order of removal, dismissal or reduction in rank of an employee of a recognised institution. In (iii) clause of second proviso, however, the legislature has deliberately omitted to mention the word "prior" and simply used the word "consent" of the Director Education could be obtained in writing. The word prior has been omitted in clause (iii) to second proviso to Section 18 purposely. Therefore, the word "prior" in the first proviso, cannot be read into that clause. Learned counsel submitted that use of a particular word by legislature in a particular provision has to be given its natural meaning. Omission of that word at another place in the same provision while mentioning that word elsewhere in the same provision has to be with a purpose. In the present case, even if the consent has been requested for immediately and granted sometime thereafter, that would not vitiate the order of termination because three conditions envisaged in clause (iii) of second proviso to Section 18 of the Act stood

complied with. It is therefore prayed that the writ petition be dismissed.

11. I have given my anxious consideration to the rival submissions and perused the material on record.

12. Starting with the first argument first, I must consider whether the respondent-education institution having initiated regular disciplinary proceedings against the petitioner could invoke clause (iii) of second proviso to Section 18 of the Act, In other words, having initiated the regular disciplinary proceedings against the petitioner, if the respondent-education-institution has invoked the clause (iii) of second proviso to Section 18, can it be inferred therefrom that there was some mala fide or that they did so only with a view to circumvent the necessity of taking disciplinary proceedings to their logical conclusion. In either of two situations, it is Section 18 only, which is attracted. The main provision of Section 18 provides that subject to any rules that may be made in this behalf, no employee of a recognised institution shall be removed, dismissed or reduced in rank unless he has been given by the management a reasonable opportunity of being heard against the action proposed to be taken. But the first proviso to Section 18 gives a rider to such order of removal/dismissal/reduction in rank that the same shall be passed only with the prior approval of the Director of Education or an officer authorised by him in this behalf. Second proviso to Section 18 although carves out an exception to the main provision, but its effect is that it completely takes the action of the management out of the purview of Section 18 because this provides that the said provision (i.e. main Section 18) shall not apply to (i) a person who is dismissed or removed on the conduct which lead to his conviction, (ii) where it is not reasonably practicable to give that employee an opportunity of showing cause, the consent of Director Education has to be obtained in writing before action is taken, (iii) where the Managing Committee is of the unanimous opinion that services cannot be continued without prejudice to the interest of the institution, his services can be terminated after giving him six months notice of notice pay and the consent of the Director of Education is obtained in writing.

13. Although, it may be true that both the options were available to a recognised education institution. However, only because the respondent institution in the first instance served upon the petitioner a charge sheet under the main provision of Section 18 and the Rules framed thereunder, does not mean that it stood divested of its power to invoke clause (iii) of the second proviso. No motive or mala fide can be inferred therefrom because validity of the action impugned has to be adjudged independently on parameters provided in clause (iii) of second proviso, which can be decided on the basis of fulfillment of three conditions referred to therein and discussed in detail by the Larger Bench decision of this Court. The issue before the Larger Bench in Central Academy Society was regarding applicability of Section 18 in the matter of removal/termination of services of employee of the recognised unaided education institution. It was held that first proviso of Section 18, that insistence of prior approval of Director of

Education would be inapplicable to the unaided education institution in disciplinary action, but the same cannot be said to be true for the second proviso thereto. The relevant discussion contained in paras 37 to 39 may be useful for the present controversy, which are reproduced hereunder:

37. The three eventualities as referred in second proviso wherefor Section 18 would be inapplicable are clearly carving out exceptions to principal provision of Section 18; and after examining the scheme of the Section 18 as a whole and applying the dictum from *Pai Foundation*, even when we hold the first proviso inapplicable to the unaided institution in disciplinary action, the same cannot be said to be true for the second proviso too.

38. The second proviso is essentially an exception whereby, in the given eventualities, the principal provision of Section 18 is altogether ruled out of application. The principal provision of Section 18 is that no employee of a recognised institution shall be removed, dismissed or reduced in rank unless he has been given a reasonable opportunity of being heard by the management. This is on the very first principles of natural justice. Even when the Hon'ble Supreme Court in *Pai Foundation* has ruled against the requirement of obtaining prior or post approval of the governmental authorities by an unaided institution while taking disciplinary action, the Hon'ble Court has not ruled that the institution, whether aided or unaided, could otherwise obviate the necessity of extending a reasonable opportunity of hearing to the employee concerned while taking an action prejudicial to him in his service. Even in the case of an unaided institution, the requirements of principal provision of Section 18, of extending reasonable opportunity of hearing to the employee against the proposed action, remains mandatory. However, as per the second proviso, which is essentially carving out three exceptions, such a requirement of extending reasonable opportunity of hearing could be dispensed with in the given eventualities but then, only with the given conditions. The first one is when the person is dismissed or removed for his conviction on a criminal charge. The second one, per clause (ii), is when it would be impracticable or inexpedient to give the employee an opportunity of showing cause. For this eventuality, the requirement of obtaining the consent of Director of Education does not, in our considered opinion, contradict the dictum of *Pai Foundation*, The provision itself being for the purpose of dispensing with the normal procedure of opportunity of hearing, its requirements are to be strictly adhered to.

39. Similarly, clause (iii) of second proviso is also of dispensing with the requirement of reasonable opportunity of hearing but here the managing committee has to form unanimous opinion that services of an employee cannot be continued without prejudice to the interest of the institution; and, upon such unanimous opinion, the services of such an employee can be terminated after giving him six months notice or salary and obtaining the consent of Director of Education. Here again, for the permissibility of dispensing with regular enquiry and opportunity of hearing, the requirements as stated are to be strictly

complied with and cannot be ignored. The requirement of obtaining consent in this clause is also, in our opinion, not such a consent which may stand at contradiction to the dictum in *Pai Foundation*. Here, in clause (iii), the Institution is not taking disciplinary action but is dispensing with the services on a unanimous decision. The necessity of obtaining consent in this provision is also a mandatory one and cannot be avoided.

14. View expressed by the Larger Bench in the above referred to judgement, does not support the contention that even when clause (iii) of second proviso to Section 18 is invoked by a recognised education institution, it is required to independently give opportunity of hearing to the affected employee. Holding so would be antithesis to the very necessity of invoking the clause (iii) of second proviso to Section 18, *supra*. Even then, in the present case, the respondent-education institution has considered the charge sheet served upon the petitioner as the notice and the detailed reply dated 11.11.1994 as his explanation. It cannot therefore be countenanced that opportunity was not granted to the petitioner before passing the impugned order.

15. Adverting now to the argument that in view of the word "approval" used in first proviso to Section 18, although in given situation such approval may be obtained subsequent to the action complained of, but consent has to be always prior in point of time, I find myself unable to uphold this argument either. In the first place, the argument proceeds on an unfounded assumption because the word "approval" used in the first proviso is preceded by a word "prior" and therefore if the order is passed in the main provision of Section 18, it has to be always prior approval of the Director or the Officer authorised by him in his behalf, which must be obtained.

16. Shri Ganesh Meena, learned Government Counsel is right when he argues that if the legislature wanted to insist on prior content of the Director, it would have also used the word "prior" in clause (iii) of second proviso to Section 18. In the present case, there is an additional reason also to hold so is that in clause (ii) of the second proviso it is also provided that Section 18 shall not apply where it is not reasonably practicable to give that employee an opportunity of hearing, the consent of the Director of Education has to be obtained before the action is taken. A comparison of clause (iii) with (ii) would again show that while the legislature has insisted on written consent to be obtained from the Director of Education if it is not practicable to give that employee an opportunity of show cause, then such consent has to be obtained in writing before the action is taken, but there is no such requirement in the cases falling in clause (iii) of second proviso to Section 18 of the Act. It is trite law that use of a word and its omission by the legislature in two different comparable provisions and at two places of the same provision has to be with a purpose because legislature cannot be expected to indulge in a useless activity. It has purposely inserted the word "prior" in first proviso and word "before" in (ii) clause of the second proviso and deliberately not used either of those words in clause (iii) of second proviso. In the present

matter, first condition about the unanimous resolution of the Managing Committee that services of the petitioner could not be continued without prejudice to the interest of the institution was satisfied. And second condition about giving him six months notice pay was also satisfied. Third condition about consent of the Director, which was immediately requested for but was granted few days thereafter on 24.1.1995 was also finally satisfied. Thus all three conditions were satisfied at least on 24.1.1999 when consent was granted by the Director. The use of the word "approval" in the letter of consent does not make any difference because that would also imply that Director of Primary and Secondary Education has consented to action of the Managing Committee in terminating services of the petitioner.

17. I am fortified in taking this view from judgement of Supreme Court in All Bihar Christian School Association vs. State of Bihar-AIR 1988 SC 306. In that also clause (d) of Sec. 18(3) of Bihar Non-Government Secondary Schools (Taking Over of Management and Control) Act, 1981 provided as under:

18.(3) The minority Secondary school accorded recognition under sub-sections(1) and (2) shall be managed and controlled under the following provisions:-

(a) xxxxxxxxxxxxxxxxxxxxxx

(b) xxxxxxxxxxxxxxxxxxxxxx

(c) xxxxxxxxxxxxxxxxxxxxxx

(d) The Managing Committee with the approval of the School Service Board shall have powers to remove a teacher, to terminate his services, to dismiss and to discharge him from service. Provided that for the purpose of approval any disciplinary action against the teacher by the managing committee, the Board shall scrutinise whether disciplinary proceedings have been in accordance with the rules and no more.

18. A similar argument regarding prior approval for removal was raised before and considered and rejected by, the Supreme Court in para 14 of the judgement in the following manner:

14. Learned counsel for the petitioner took serious objection to the provisions contained in cl. (d) of S. 18(3) which lays down that the managing committee of a minority institution shall have power to remove, terminate, dismiss or discharge a teacher with the approval of the School Service Board. It was urged that School Service Board has been imposed as a higher authority over the management, if the Board refused to grant approval to the disciplinary action taken by the management against a teacher, the management's right of administration would be affected adversely. The School Service Board enjoys blanket power on the management's right to take disciplinary action against its employees and therefore cl. (d) infringes with the minority's right of management. We do not find any substance in the submissions. Indisputably

power to remove, dismiss, terminate or discharge a teacher from service is an essential attribute of management's right but cl. (d) does not invest that power on any outside agency. The power to take disciplinary action vests in the managing committee of the minority school, it is required to exercise that power in accordance with the rules framed by it. Clause (d) requires that the managing committee shall take approval of the School Service Board in removing, terminating, dismissing or discharging a teacher from service. The managing committee is not required to obtain prior approval from the School Service Board, instead it may seek approval of the School Service Board after taking action xxxxxxxxxxxxxxxxxxxx

19. Coming now to the argument that the previous conduct of the petitioner could not be made the basis of the impugned decision and that misconduct could be taken into consideration only if the petitioner was given a notice to that effect requiring him to explain such conduct. I find that the cited judgement of Supreme Court in Mohd. Yunus Khan, supra is wholly distinguishable. In the present case, the Managing Committee while passing the impugned order has not at all considered the previous warning given to the petitioner on 23.4.1991. It has considered the notice dated 17.4.1994 and reply submitted by the petitioner dated 11.11.1994 and thereupon unanimously resolved to terminate services of the petitioner with effect from 22.11.1994. Previous conduct of the petitioner was cited only before the Tribunal where the memo served upon the petitioner was placed on record with the reply of management at Annexure-R/3. This merely proved before the Tribunal as to what kind of character the petitioner had been having and the activities he was indulging even on earlier occasion.

20. Lastly, now coming to the merits of the case whether the respondent-education institution in the present case was justified in invoking clause (iii) of second proviso to Section 18, I find that the Tribunal has made detailed discussion in the impugned order while dismissing appeal of the petitioner against the action of the respondent institution. The respondent-education institution in para 2.K of the reply filed before the Tribunal explained the reason why it decided to invoke the aforesaid provision, which is reproduced hereunder for the facility of reference:

2.K. That the contents of para no. 2.K of the Application are not admitted as stated by the Applicant. Owing to the fact that the enquiry cannot be continued without the employee continuing in the service of the Institution which is a residential Girls School and the services of the employee (Applicant herein) would have to be continued during the course of the enquiry which would be prejudicial to the interest of the Institution as well because the mis-conduct of the application for which he had been charged related to misbehaviour with a Girl student. The conduct of the aforesaid enquiry would necessarily have to bring in the concerned girl student as a witness. The minor student who is a girl would be required to appear as a witness against the application and the same could not have done without the consent of her parents. Further subjecting the minor girl

to be cross-examined would seriously under-mine and jeopardise the interest of the minor girl. Upon the matter being placed before the Board, the Managing Committee, was of the unanimous opinion that further continuance of the enquiry would not be in the interest of the institution and the services of the employee who had previously also misbehaved with a girl student and had been warned in writing on 23.4.91 had again submitted similar misconduct of misbehaviour and it was not in the interest of the Institution to continue the employee in the service of the Institution and hence, it was decided to terminate the services of the employee by giving him six months pay in lieu of Notice, Accordingly in terms of Proviso III order Annexure 11 was passed and the consent of the Director of Education obtained which was sanctioned vide letter dated 24.1.1995.

21. Perusal of the above detailed explanation given by the respondent-education institution before the Tribunal would show that there was sufficient justification for the respondents for not continuing with the regular disciplinary proceedings. The respondent-education institution is a prestigious residential girls school of the city of Jaipur. If the enquiry would have proceeded further, that would have continued for months or may be years and that would have necessitated the continuation of the petitioner in service. Given the kind of complaints against the petitioner, if the respondent-education institution did not consider it in the interest of the institution or otherwise considered his continuation as prejudicial to the interest of the institution, that much of freedom has to be conceded to it. This is because the allegations against the petitioner were of misbehaviour with a young girl student who was inmate of a girls hostel, whose safety and security is entirely the responsibility of the management of the respondent-education institution. If the enquiry was continued, that would have also necessitated production of the concerned girl, who was a minor, before the enquiry officer where she would be then required to face cross examination, which as the respondents rightly pointed out, would have then required the consent of her parents. This would have had a very adverse effect on the psychic of the minor girl of tender age and would have seriously undermined and jeopardised interest of that minor girl, apart from bringing a bad name to the respondent-educational institution.

22. In view of what has been discussed above, I do not find any infirmity in the impugned order passed by the Tribunal dated 28.4.1997 and the impugned order dated 23.11.1994 terminating services of the petitioner. The writ petition is therefore dismissed.