
(2013) 02 DEL CK 0399
In the Delhi High Court
Case No : W.P. (C) No. 1828/2012

Dav College Managing Committee

APPELLANT

Vs

Suriender Rana and Another

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Citation : (2013) 02 DEL CK 0399

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—The challenge by means of this petition is to the impugned order dated 24.2.2012 of the Delhi School Tribunal which reads as under:-

Sh. Surender Kumar advocate who is incidentally present in the Court states that he shall seek instructions from the Directorate of Education i.e. Respondent no. 3.

Adjournment is sought by the Proxy counsel for the Respondent School submitting that the main counsel Sh. Sanjay Kumar is out of station.

Perusal of the record shows that one of my Ld. Predecessors vide orders dated 15.01.2002 had directed for reinstatement in service of the petitioner. The Respondent has preferred an appeal against the said orders in the Hon"ble High Court of Delhi and thereafter in the Supreme Court. Hon"ble High Court vide orders dated 03.02.2011 upheld the orders of this Tribunal Ld. Single Judge and the Division Bench of the Hon"ble High Court. Despite orders of the Hon"ble Supreme Court dated 03.02.2011. The Respondent School has not reinstated the petitioner in service. In the circumstances, I do not find it a case for any adjournment. Notice as dictated be issued to the General Secretary, DAV College Managing Committee, Chitra Gupta Road, Rahar Ganj, New Delhi, and Manager of the DAV Century Public School & Ors. Arya Samaj Mandir, Railway Road, Rani Bagh, Delhi 110034 returnable for 01.03.2012.

P.O./DST

24.02.2012

(underlining added)

This impugned order was thereafter followed by another order of the Delhi School Tribunal dated 1.3.2012 which is also impugned, and the operative portion of which reads as under:-

As discussed above the Delhi School Tribunal vide its orders dated 15.01.2002 had set aside the impugned orders of termination of the service of the petitioner. It was specifically directed that the Petitioner be reinstated to its original position. The natural consequence of these directions would be to pay full back wages to the Petitioner despite reinstating him in service.

At this stage Ld. Counsel for the Respondent School Sh. Sanjay Kumar, Advocate states that the Respondent School shall pay to the Petitioner full back wages within a period of one months from today. Besides adjusting him in some other school run by this management.

In the circumstances let any coercive directions u/s 27 read with 11 of Delhi School Education Act & Rules - 1973 be not issued.

Renotify for further proceedings for 10.04.2012. Orders dasti.

P.O./DST

01.03.2012

(underlining added)

2. A reference to the aforesaid orders shows that the petitioner is under a misconception that the proceedings are in the nature of contempt proceedings. The proceedings before the Delhi School Tribunal resulting in passing of the impugned orders are in the nature of proceedings u/s 27 of the Delhi School Education Act, 1973 and which reads as under:-

27. Liability of manager to punishment.-If the manager of any recognized private school-

(a) omits or fails, without any reasonable excuse, to carry out any orders made by the Tribunal, or

(b) presents any student for any public examination without complying with the provisions of section 19, or

(c) omits or fails to deliver any school property to the Administration or any officer authorised by him under sub-section (2) of section 20,

he shall be punished with imprisonment for a term which may extend three months, or with fine which may extend to one thousand rupees, or with both.

3. A reference to the aforesaid Section 27 shows that in case of non-compliance of the orders which have been passed by the Delhi School Tribunal, the manager of the School will be liable for punishment of imprisonment or with fine or both.

4. I may note that the Supreme Court in the case of Union of India and another Vs. Paras Laminates (P) Ltd., has held that every Tribunal has within the bounds of its jurisdiction all those incidental and ancillary powers which are necessary to make fully effective the express grant of statutory powers. The exercise of such powers, which are incidental and ancillary, are necessary to make effective the exercise of powers which are granted.

5. Indubitably the Delhi School Tribunal as per Section 27 has powers to implement its orders and thus it has all incidental and ancillary powers to make orders u/s 27 effective. No doubt Tribunal cannot exercise powers of contempt, but, the subject proceedings are not in the nature of contempt proceedings but within the bounds of Section 27, and under which the Delhi School Tribunal can surely act.

6. I may note that the operative portion of the second impugned order dated 1.3.2012 reproduced above shows that the petitioner through its counsel has conceded its liability for compliance of the order with respect to reinstatement of the respondent No. 1 alongwith the specified back wages. Therefore, since no challenge can lie to a consent order in law, this petition also cannot lie for this additional reason.

7. In view of the above, for both the reasons, that though the proceedings before the Delhi School Tribunal are not in the nature of contempt proceedings, (and nomenclature being irrelevant) but since Delhi School Tribunal has powers u/s 27 of the Delhi School Education Act, 1973 to pass orders in case of non-compliance of its orders the impugned orders are not illegal or without jurisdiction. The aforesaid is to be taken with the fact that the Supreme Court in the Paras Laminarts's (supra) case held that every Tribunal has inherent powers to ensure that its orders are implemented, and therefore, in my opinion there is no merit in the writ petition by which the impugned orders of the Tribunal dated 24.2.2012 and 1.3.2012 are challenged. The impugned orders and proceedings before the Tribunal are in the nature of execution proceedings by acting under the provision of Section 27 of the Delhi School Education Act, 1973.

8. The writ petition is accordingly dismissed, leaving the parties to bear their own costs. In case the petitioner has deposited any amount before this Court, on the respondent No. 1 showing to the registry of this Court orders of the Delhi School Tribunal that the respondent No. 1 is entitled to such amount, then the Registrar of this Court will release the amount as ordered by the Delhi School Tribunal in favour of the respondent No. 1.