

(2013) 10 DEL CK 0108

In the Delhi High Court

Case No : Writ Petition (C) No. 5755 of 2007

Jitender Singh Tyagi

APPELLANT

Vs

LT. Governor of Delhi and Others

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Delhi School Education Act, 1973 — Section 24(3)

Citation : (2014) 140 FLR 827 : (2014) LLR 5

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : K.K. Tyagi and Mr. Iftekhar Ahmad, for the Appellant;

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—By this writ petition, the petitioner impugns the charge-sheet dated 29.5.2007 issued to him. As per this charge-sheet departmental action is sought to be taken against the petitioner because petitioner was transferred from D.A.V. Public School, Sant Nagar, Burari to D.A.V. Public School, Bhai Radhir Nagar, Ludhiana, Punjab but he did not join at the Ludhiana school. Petitioner represented against his transfer order on the ground that he is an employee of a school in Delhi governed by Delhi School Education Act and Rules, 1973 and pursuant to this representation, made to the Director of Education, the Director of Education has passed an order dated 22.6.2006 directing the school to withdraw the transfer order.

2. On the refusal of the school to implement this order dated 22.6.2006 of the Director of Education, petitioner preferred a W.P. (C) No. 13441/2006 which was dismissed by a learned Single Judge, however, LPA against the judgment of the learned Single Judge being LPA No. 1991/2006 was allowed by a Division Bench of this Court by its judgment dated 3.10.2008 and it was directed that the school should implement the order dated 22.6.2006 of the Director of Education. The operative portion of the judgment of the Division Bench in LPA No. 1991/2006 reads as under:-

15. Accordingly, the judgment of the learned Single Judge cannot be sustained and the same is set aside. A writ of mandamus is issued directing the respondents 2 and 3 to implement the order dated 22nd June 2006 passed by the respondent no. 1 the Director of Education u/s 24(3), not later than 31 October, 2008 and also pay all arrears and/or payment due to him pursuant to the said order dated 22nd June 2006. The appeal is thus allowed with costs quantified at Rs. 20,000/- payable to the appellant not later than 31st October, 2008.

3. The school had filed an SLP (Civil) No. 12149-50/2009 against the judgment of the Division Bench which dismissed by the Supreme Court on 11.5.2009. Review petition against this order of the Supreme Court was also dismissed on 10.9.2009.

4. It is therefore clear that petitioner was not bound to comply with the transfer order issued by the school transferring him from the school in Delhi to one in Ludhiana, Punjab. Therefore, no charge-sheet also can be issued against the petitioner on the ground of not complying his transfer order. The writ petition is accordingly allowed and the impugned charge-sheet dated 29.5.2007 and all proceedings emanating therefrom will stand quashed. Parties are left to bear their own costs.