
(2013) 09 DEL CK 0448

In the Delhi High Court

Case No : Writ Petition (C) No. 7127 of 2012

Jyoti Bansal and Another

APPELLANT

Vs

Managing Society and Another

RESPONDENT

Date of Decision : 26-09-2013

Acts Referred:

Delhi School Education Act, 1973 — Section 10(1)

Citation : (2013) 09 DEL CK 0448

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Rajiv Bakshi, for the Appellant; Mohit Kumar, Advocate for R-1 to 3, Mr. Kamal Bansal, Sachin Chopra, Advocates for R-4 and 5 and Mr. S.C. Meena, DEO Zone-27, for the Respondent

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—Petitioners in this petition claim the relief of being granted monetary benefits which are payable to teachers in government schools. This relief is claimed as per Section 10(1) of the Delhi School Education Act, 1973 which provides that teachers in private schools will at least get such monetary emoluments which are being given to teachers in government schools. Counter-affidavit of respondent nos. 1 to 3 has been taken in Court today. A reading of this counter-affidavit does not show as to why the respondent nos. 1 to 3 (the school) should not comply with the provision of Section 10(1), and which is a provision which mandates the schools to give all necessary monetary benefits including pay and allowances, medical facilities, pension, gratuity, provident fund etc to teachers of private schools as are given to teachers in government schools.

2. Though counsel for respondent no. 3-school argues paucity of funds to not comply with the provision of Section 10(1), in my opinion, this is not a valid defence as I have held in many cases, including the case of Meenu Thakur Vs. Somer Ville School & Ors. W.P. (C) 8748/2010 decided on 13.2.2013, that paucity of funds is not a ground to not comply with the requirement of law of

payment of monetary benefits to teachers. A Division Bench of this Court in LPA 286/2010 titled as Rukmani Devi Jaipuria Public School Vs. Sadhna Payal & Ors. decided on 11.5.2012 has also held that paucity of funds is not a ground not to make payments of monetary benefits to teachers.

3. In view of the above, the writ petition is allowed and disposed of by directing that petitioner nos. 2 to 6 will be granted all benefits in terms of Section 10(1) of the Delhi School Education Act, 1973 by respondent no. 3-school. It may be noted that petitioner no. 1 has already compromised with the respondent no. 3-school and therefore, no directions are passed so far as the petitioner no. 1 is concerned.

4. Petitioner nos. 2 to 6 be now paid arrears which are legally payable within a period of three months from today alongwith interest at 5% per annum simple from the date from which the amounts become due till the date of payment. After a period of three months from today, petitioner nos. 2 to 6 will be entitled to interest at 7 1/2 % per annum simple on the unpaid amounts. If there are any disputes as to calculations of arrears, then after the petitioner nos. 2 to 6 receive amounts from the respondent no. 3-school, petitioner nos. 2 to 6 can point out deficiencies in the amounts paid, and if still the petitioners are not paid the amounts due as per law, petitioner nos. 2 to 6 will make a representation to the Director of Education who will appoint a nominee to determine the amounts which are in law payable to petitioner nos. 2 to 6. The nominee of Director of Education will pass a speaking order with respect to the disputed amounts after hearing both the parties or their representatives, and which will be communicated to the petitioner nos. 2 to 6 as also respondent no. 3-school. The writ petition is allowed and disposed of in terms of the aforesaid observations, leaving the parties to bear their own costs.