

(2007) 03 DEL CK 0260

In the Delhi High Court

Case No : Writ Petition (C) No's. 1707-09 of 2006

Varun Mani and Others

APPELLANT

Vs

Directorate of Education and Others

RESPONDENT

Date of Decision : 22-03-2007

Acts Referred:

Delhi School Education Rules, 1973 — Rule 98

Citation : (2007) 141 DLT 35

Hon'ble Judges : Rekha Sharma, J

Bench : Single Bench

Advocate : J.P. Singh, for the Appellant; V.K. Tandon, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Sharma, J.—Sh.Varun Mani and Smt.Anita Garg were selected as TGT(Maths), while Miss Sikha Yadav was selected as TGT(English) pursuant to an interview held on November 23, 2005. Consequent upon their selection, they joined Nehru Memorial Co-Education Middle School on December 12, 2005 and worked as such till January 6, 2006 when they were told through a communication of the same date that their appointments were void ab-initio because the same were made without holding the selection in accordance with the rules. It is this letter of January 6, 2006 which has led the petitioners to file the present writ petition seeking quashing of the same and a mandamus to respondent No. 2 to allow them to continue on the posts of TGT.

2. It is not disputed by learned Counsel for respondents No. 1 and 2 that the aforementioned teachers were selected by a duly constituted Selection Board which held interviews on 23rd November, 2005. The Selection Board comprised of five members one of which, namely, Sh.R.K.Wadera, ADE was the nominee of the Director of Education. It so happened that when the interviews were in progress, about 30-40 people barged into the interview room and starting telling the Selection Board that the Directorate of Education was not competent to hold the interviews. They claimed that the management of Nehru Memorial Co-

Education Middle School had won the court case which it had filed against the taking over of the school by the Directorate of Education about 20 years ago and, Therefore, it was the management alone who was competent to hold the interviews. This incident was reported to the Joint Director of Education by Sh.R.K.Wadera vide status report dated November 25, 2005. He informed the Joint Director that the mob which tried to disrupt the interview was pacified and thereafter, the interviews were resumed under police protection. He also informed that the selection list was prepared in the order of merit and was duly approved and signed by all the members of the Selection Committee, except him.

3. According to the respondents, the selection process got vitiated because the mob had barged into the room when the interviews were in progress. It is also their case that the Director of Education had not accorded the approval to the selection and, Therefore, no appointment could be made without his approval.

4. It is strange that respondents No. 1 and 2 have chosen to take the stand that the selection process got vitiated because of the disruption caused by 30-40 people while the same was in progress. As noticed above, the Director's own nominee - Shri R.K.Wadera, in his status report to the Joint Director of Education had stated that the mob was pacified and after it left, the selection process was resumed under police protection. He also stated that the school was taken over 20 years back and the Directorate, in view of the judgment in Civil Writ No. 6522 of 2002, was fully empowered to appoint the teachers. He found nothing wrong in the process of selection and it was in no way adversely commented upon by him. Of course, he did not sign the report but that is not of much consequence. He was a part of the selection process and party to the selection.

5. As regards the submission of learned Counsel for the respondents that the appointment could not be made without the approval of Director of Education, reference be made to Rule 98 of the Delhi School Education Rules, 1973. It says that every appointment made by the Managing Committee of an aided school shall, initially, be provisional and shall require the approval of the Director, but such approval shall not be required where the Director's nominee is present in the Selection Committee/DPC. Here, in the present case, Sh.R.K.Wadera was present as the Director's nominee. Therefore, there is no merit in the submission that before the appointments could be made, the approval of the Director was needed.

6. For what has been noticed above, the writ petition is allowed. Consequently, the letter dated 6th January, 2006 is quashed. As a result the petitioners shall be taken back in service. They shall be paid salary, allowances and other benefits from the date they join duties.

7. The writ petitions stand disposed of.

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8. The application has become infructuous. Accordingly, it is dismissed as such.