
(2006) 03 DEL CK 0047
In the Delhi High Court
Case No : Writ Petition (C) 878 of 1998

Vikas Sharma

APPELLANT

Vs

Sanatan Dharam Co-Edu. Hr. Sec. Schl. and Another

RESPONDENT

Date of Decision : 17-03-2006

Acts Referred:

Delhi School Education Act, 1973 — Section 20, 24(3), 24(4), 8
Delhi School Education Rules, 1973 — Rule 96, 98

Citation : (2006) 132 DLT 259 : (2006) 89 DRJ 204

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : K.P. Gupta, for the Appellant; L.C. Goel and Shilpa Gupta, for Geeta Luthra, for R-2, for the Respondent

Judgement

S. Ravindra Bhat, J.—Issue Rule. Mr. L.C. Goel, Advocate and Ms. Shilpa Gupta, Advocates waive notice of Rule.

2. The grievance of the writ petitioner in these proceedings is that in spite of being selected to the post of Assistant Teacher, the respondent No.1, an aided school, did not issue the appointment letter.

3. The petitioner has averred that when his representations were pending, the Directorate issued an order on 29th October, 1996 requiring the management to issue the appointment letter to the petitioner. That direction reads as follows:

WHEREAS, the relevant record and other correspondence relating to the affairs of S.D. Sr. Sec. School, Sadar Bazar, Delhi Cantt., New Delhi has been placed before the undersigned and after the careful consideration of the matter, the undersigned is convinced that the managing committee of the school has failed to act upon in accordance with the relevant provisions of Delhi School Education Act & rules, 1973. It is observed that the Selection Board Committee was constituted at the request of the managing committee of the school to fill up the vacant post of Asstt. Teacher by direct recruitment in accordance with the

provisions of Section 8 read with Rule 96 of Delhi School Education Rules, 1973.

WHEREAS, the meeting of the said selection board committee was held on 7.2.1996. the said selection board committee has selected Shri Vikas Sharma for the appointment of assistant teacher. The managing committee of the school has neither issued the offer of appointment of Sh. Vikas Sharma the candidate selected by the selection board committee, nor informed the Director of Education of his decision of non-acceptance of selection made by selection board committee by giving specific reasons as required under rule 96(vii) of D.S.E., 1973. The managing committee of S.D. Sr. Sec. School is Therefore directed u/s 24(3) of Delhi School Education Act & Rules, 1973 to consider the minutes of selection board committee and offer appointment to Sh. Vikas Sharma as assistant teacher by passing a resolution of the managing committee within 15 days on receipt of this order failing which penal action will be taken in accordance with the Section 24(4) of Delhi School Education Act & Rules, 1973 without any further action.

4. The respondent No. 2, i.e the Directorate of Education has not disputed the averments in the petition. In fact, it supports the petitioner in so far as the averments with regard to the direction u/s 24(4) is concerned.

5. During the course of hearing, learned counsel for the petitioner has relied upon an order passed by this Court while disposing off the W.P.(C) No. 1914/2001 which arose on a challenge to the take over of the respondent school in terms of Section 20 of the Delhi School Education Act. The Court had directed as follows:

The grievance of the petitioner is that the management of the school was sought to be taken over without giving an adequate opportunity to the petitioner management to file reply to the inspection report. Copy of the inspection report has been placed on record which shows that 5 reasons have been given why the school should be taken over. They are (1) failure to contribute 5% share towards pay and allowance of the employees (2) non-payment of electricity and property tax (3) non-filling of vacant post in school (4) non-constitution of managing committee and holding of election PTA (5) using the school premises for commercial purposes.

Learned counsel for the petitioner states that the first two aspects stand rectified and the problem arose on account of some dispute with the Vice Principal of the school. In so far as the issue of filling-up post is concerned, learned counsel for the petitioner submits that there were certain litigations filed challenging the constitution of selection committee but all these matters are now over and steps would be taken to fill-up the vacant post. It is further stated that appropriate constituted managing committee would be brought in place and elections of the PTA will be held.

In so far as the school premises being used for commercial purposes is concerned, learned counsel for the petitioner submits that the area of land is

much larger and the part of the land is used for school purposes. It is submitted that as per the original plans submitted for approval of the school itself, the area where the shops are existing was not shown as part of the school. However, plans are not available with the petitioner and the respondents can examine the said aspect to confirm this fact. It is further submitted by learned counsel for the petitioner that the shops are existing over a long period of time.

In view of the passage of time, it is agreed that there may be a fresh inspection carried out to verify what is the position which is now existing in the school to come to the conclusion whether there should be take over of management or not. It is thus directed that such an inspection be carried out within a period of three months and the petitioner be thereafter given an opportunity in case any adverse finding arrived at as per the inspection report. In case a decision is taken to reiterate the take over of the management of the school on the basis of fresh inspection, it is always open to the petitioner to impugn the same in accordance with law.

The present arrangement which is continuing in so far as the management of the school is concerned, shall continue to operate till a decision is taken as aforesaid. This direction is necessary since there were interim orders granted in favor of the petitioner but the respondent is stated to be playing some role in respect of management which has not been objected to by the management. It is this arrangement which is liable to be continued. Needless to say that the impugned order will stand superseded by the fresh order to be passed as aforesaid. It is also directed that steps be taken by the petitioner to remedy the position by holding the necessary elections for the constitution of the managing committee and PTA.

6. Learned counsel for the respondents submit that pursuant to the order of this Court dated 6.2.2004 (supra) in W.P.(C) No. 1914/2001, the Government of NCT issued an order on 29.12.2004 discontinuing the existing arrangement of administering the respondent school and handing over the management to the elected Managing Committee.

7. Mr. L.C. Goel, learned counsel appearing on behalf of the respondent school submits that the management of the School has no objection to issue an appointment letter to the petitioner provided the Directorate takes necessary steps to approve the appointment. Ms. Shilpa Gupta, Advocate for Ms. Geeta Luthra, Advocate for respondent No.2 states upon instruction that the management of the aided school in this case has been empowered to make the appointment and that the requisite approval would be granted if the necessary application made to the Directorate. Learned counsel also submits that in case the appointment is directed and necessary application is made, the Government of NCT would approve the same under Rule 98.

8. In view of the above submissions and having regard to the factual matrix, a direction is issued to respondent No.1 school to issue an appointment letter to

the petitioner within a period of two weeks from today. The appointment letter shall be simultaneously submitted for approval to the Directorate which shall accord its approval having regard to the previous procedure taken by it in these proceedings as well as dated 29.10.1996 u/s 24(3) of the Act, within a further period of two weeks thereafter.

9. The respondents are directed to consider the appropriate notional benefits that the petitioner may be given in view of the admitted position that he was entitled to be selected in the year 1996. An appropriate order shall be passed in that regard while issuing the appointment letter.

10. Nothing further survives in this petition and the same is accordingly disposed off, in terms of the above directions.