



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-7032-2019

Date of Decision: 17.03.2025

DR. SWARAN LATA

...Petitioner(s)

Versus

MANAGEMENT COMMITTEE DYAL SINGH PUBLIC SCHOOL
AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Shvetanshu Goel, Advocate with
Ms. Shabnam Mahajan, Advocate
for the petitioner.

Mr. R. K. Malik, Sr. Advocate with
Mr. Anshul Labana, Advocate
for respondents no.1, 3 and 4.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed seeking a writ of *certiorari* quashing the judgment passed by the Educational Tribunal, Karnal, dated 01.12.2018, Annexure P-9, whereby the petitioner's dismissal from service on account of proven misconduct, vide order dated 06.07.2011, Annexure P-5, has been upheld.

2. Facts of the case in brief are, the petitioner was appointed as PGT Chemistry vide letter of appointment, dated 06.09.1996. She was chargesheeted on 17.03.2011, on the allegation of misbehaviour with students of Class XI during the academic session 2010-11, and mentally harassing them for not taking private tuition from her. She had also threatened that they would not be promoted to Class XII. An enquiry officer was appointed to enquire into the charges, and she was afforded due opportunity to present her



version. The enquiry report dated 28.05.2011, Annexure P-2, concluded as under:

From the evidence discussed above and the enquiries made by me, it has been proved fully that Dr. Swaran Lata had threatened Isha D/o Mrs. Varsha Chaudhary, Navneet S/o Mrs. Sheela Rani, Anubhav Bhankar S/o Ishwar Singh Bhankar and Gautam Saini S/o Sh. Ravinder Saini students of 11th class non-Medical group of session 2010-11 from very beginning of the session to take private tuition from her otherwise they will not be promoted to 12th class. Dr. Swaran Lata had compelled Anu Joon D/o Surender Singh Joon and Karan S/o Mrs. Bharti for taking tuitions from her and had also demanded and accepted Rs.5000/- from Anu Joon and Rs. 2000/- from Karan as tuition fee. Dr. Swaran Lata had also demanded Rs. 10,000/- as tuition fee from Anmol Singh Virk but on his failure to pay her this huge amount, she demanded Rs. 5000/- which also the said student could not afford and pay to her. Thus, the charge is fully proved.

2.1. Based upon that, a show cause notice was issued to her, dated 08.06.2011, Annexure P-3, which was duly replied to vide letter dated 23.06.2011, Annexure P-4. Considering her reply as well as findings of the enquiry officer, the School Chairman passed the impugned order of dismissal from service under Rule 27(ii)(c) of Dyal Singh Public School Employees (Services, Recruitment, Conduct and Discipline) Rules, 2000 (for short, 'the School Rules').

2.2. The petitioner filed an appeal before the Educational Tribunal, which was decided vide judgment dated 28.03.2014, Annexure P-7, whereby the dismissal order dated 06.07.2011 was set aside, giving liberty to the School's Management to pass a fresh order in accordance with law after affording due opportunity of hearing to the petitioner. The judgment was



challenged by the Management before this Court by filing CWP-8573-2014 titled *Dyal Singh College Trust Society and Managing Committee, Dyal Singh Public School v. Educational Tribunal for Educational Institutions at Karnal and others*, which was disposed of vide order dated 06.05.2014, with the following observations:

Heard the arguments of learned counsel for the petitioner and have also perused the impugned order, Un-Amended Rules of 2003 as well as Amended Rules of 2007.

Learned counsel for the petitioner has very fairly admitted that this fact was not brought to the notice of the Appellate Authority. Moreover, there is nothing on record to show that it was in the notice of the Appellate Authority while passing the impugned judgment as nothing has been mentioned either in some document or in the written statement that the Appellate Authority was having the knowledge about substitution of earlier Rules.

Keeping in view the submission made by learned counsel for the petitioner as well as substituted Rules, it appears that the impugned order has been passed without taking into consideration the amended Rules of 2007.

Accordingly, the present petition is disposed of with a direction to the Appellate Authority i.e respondent No.1 to take into consideration the Rules of 2007 and pass necessary order after hearing both the parties.

2.3. In view thereof, the issue whether approval of the Committee under the Haryana School Education (Amendment) Rules, 2007 (for short, 'Rules of 2007') was a condition precedent for imposing major punishment of dismissal from service against the petitioner, was reconsidered by the Tribunal leading to passing of the impugned judgment, dated 01.12.2018, dismissing her appeal.



3. In this background, learned counsel for the petitioner has firstly contended that the order of dismissal is *per se* illegal as Chairman of the Managing Committee had no authority to pass this order. In terms of the School Rules, Principal is the competent authority to take disciplinary action against an employee, and not the Chairman. *Secondly*, it has been contended that the School is affiliated to the Central Board of Secondary Education (CBSE). Accordingly, the CBSE Affiliation Bye-laws will be applicable, and the petitioner's conduct needs to be regulated in terms therewith. Bye-law 47 prescribes the procedure for imposing major penalty, and also stipulates that no order imposing such a penalty shall be passed by the disciplinary authority except after approval of the committee. Since the disciplinary action against the petitioner has been taken without approval of such a committee, it is unsustainable. The Bye-laws have a force of law; in this regard he has placed reliance upon Bye-law 19(2), which is to the following effect, "The Society/Trust/Company registered under Section 25 of the Companies Act, 1956 will ensure that the school is running as per the provisions of the Education Act and other relevant Acts of Centre/State Governments affiliation norms of CBSE and shall be committed to provide quality education to the children and for this shall take necessary steps as per its needs." In support of the contention, he has referred to *Jigya Yadav v. Central Board of Secondary Education and others*, (2021) 7 SCC 535. *Thirdly*, it has been contended that Rule 162 of the Rules of 2007 requires that 'every managing committee of recognized school running under self-finance scheme shall frame rules and regulations of their employees in relation to service conditions, constitution of disciplinary committee, etc.' Since the School Rules are of the year 2000, the same cannot be considered to have been framed in terms of the subsequently



notified Rules of 2007, and resultantly the enquiry proceedings conducted under the former Rules are illegal.

4. Learned senior counsel for respondents no.1, 3 and 4, on the contrary, contends that the impugned judgment is well reasoned and has been passed after considering every argument raised by the petitioner/appellant therein. He further contends that Bye-law 24 of the CBSE Affiliation Bye-laws clearly stipulate that each affiliated school shall frame its own Rules for the employees, which would be as per Education Act of the State/UT concerned; the Bye-law reads as under:

1. Each school affiliated/to be affiliated with the Board shall frame Service Rules for its employees which will be as per Education Act of the State/U.T., if the Act makes adoption of the same obligatory, otherwise as per Service Rules given in subsequent sections.

He has further been contended that the objection taken by learned counsel for the petitioner regarding competence of the Chairman to pass the order of dismissal is also wrong, since the School Rules were amended by the Management in its meeting dated 21.03.2002 and disciplinary powers against the staff were vested with Chairman of the Management Committee. The amended Rule reads as under;

(A) Powers and Functions of Chairman of the School Managing Committee:-

(i) to (vii) xxx xxx xxx

(viii) Disciplinary Powers:- He shall exercise powers to take disciplinary action against staff as per Dyal Singh Public School employees Discipline Rules.



5. Submissions made by learned counsel for the parties have been considered.

6. The first contention of learned counsel for the petitioner regarding competence of the Chairman to pass the order of dismissal is without substance, since the Bye-laws stand amended by a subsequent amendment carried out on 21.03.2002, vesting the Chairman with the power to take disciplinary action against the employees.

7. Secondly, the argument concerning mandatory application of CBSE Bye-laws to regulate the disciplinary matters, is misconceived. It has been raised on the basis of Bye-law 19(2), that ‘the School Society will ensure that the school is running as per the provisions of the Education Act and other relevant Acts of Centre/State Governments affiliation norms of CBSE...’ The stipulation evidently is that the School is to be run as per provisions of the Central or the State Acts, as the case may be, as also the norms laid down by the affiliating bodies. Further, Bye-law 24 clearly provides, “*Each school affiliated/to be affiliated with the Board shall frame Service Rules for its employees which will be as per Education Act of the State/U.T., if the Act makes adoption of the same obligatory, otherwise as per Service Rules given in subsequent sections.*” There is no dispute that the Haryana School Education Act, 1995 and the Rules of 2007 framed thereunder make it mandatory for the private educational bodies, like the respondent Management, to frame service rules for its employees and the School Rules 2000 have been so framed. Therefore, there is no basis to contend that CBSE Bye-laws will apply to the petitioner’s case.

8. Lastly, the argument that the School Rules framed by the Management cannot be termed valid in the light of requirements of Rule 162



of the Rules of 2007, was raised before the Tribunal also, and already stands rejected after due consideration with the following observations:

21. To my mind, there is no merit in the contentions. The requirement of supplying copies of rules and regulations framed by the school is at the stage of moving an application for recognition. As discussed above, the respondent-school was already recognized before the Rules of 2003 came into being. No doubt that by virtue of sub-Section 6 of Section 4 of the Act 1995 such school had to obtain 'No Objection Certificate' from the Government so as to be deemed to have been recognized under the Act. However, there was no condition either in the statute or rules that they were under obligation to supply rules and regulations framed by them to the department at that stage. Therefore, the rules framed by the school hold the ground.

22. The fact remains that the respondent school already had its own rules known as Dyal Singh Public School Employees (Service, Recruitment, Conduct and Discipline) Rules, 2000 even before the Education Rules, 2003 were framed. The School Rules were applicable till 2003 when the same were eclipsed by Education Rules 2003. However, the shadow was removed in 2007 when Rules 163 to 185 of the Education Rules 2003 were omitted. Therefore, the School Rules became free from infirmity. Needless to say that the doctrine of eclipse can be invoked in such cases where law/rules were valid when the same were enacted/framed but shadow was cast by supervening event, namely, inconsistency with statute/Rule which came into existence subsequently. This is precisely what happened in this case. It is reiterated that when the respondent-school framed Rules in 2000, there were no Rules of 2003. Therefore, the Rules framed by the school were valid. However, shadow was cast by Rules of 2003 which came into being subsequently. The Rules framed by the school were rendered dormant. However, after the amendment of the Rules of 2003, the shadow was removed.



Therefore, rules framed by the school became free and came back to life.

This Court finds no valid reason to differ with the reasoning recorded by the Tribunal. The order of dismissal against the petitioner has been passed in line with the provisions of the School Rules, and it has not been disputed that due procedure has been followed before taking disciplinary action. She was afforded due opportunity of hearing and the order is based upon due consideration of relevant facts of the case, including the response to the show cause notice as well as findings of the enquiry officer.

9. Further, the judgment in *Jigya Yadav* case, holding that the CBSE Examination Bye-laws operate as law and must be regarded as such for all legal purposes, has no application to the facts of this case. The issue before this Court was correction/modification of name recorded in marksheets issued by the CBSE, and validity of the Bye-law restricting the scope of such corrections. The observations by the Court were made in this context which did not concern conditions of service of employees of a school affiliated to the CBSE. Besides, in the instant case, the Management has framed its own School Rules in line with the statutory mandate of the Act of 1995 which regulate service conditions and disciplinary matters of the employees. Accordingly, reliance upon the judgment is misconceived.

10. In view the discussion, there is no merit in the petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

17.03.2025

Ad

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No