

National High School, Madras

Vs

Education Tribunal and another,

Civil Appeal No. 3176 of 1981

(K. Jagannatha Shetty, Yogeshwar Dayal JJ)

26.09.1991

K. JAGANNATHA SHETTY, J.:-

1. Respondent 2 was a teacher in the appellant school. It is a recognised private school. The Secretary of the School Committee framed certain charges against the respondent and he was called upon to give explanation. The respondent in his explanation specifically pleaded that he needed an enquiry into the matter by retired educationists of the local area other than the school committee. Accepting that request a committee other than the school committee was constituted to hold an enquiry. The committee conducted the enquiry in which the respondent participated and did not raise any objection as to its jurisdiction. The committee found him guilty and submitted a report to the school committee. The school committee after obtaining approval from the Department dismissed the respondent from service. Against the dismissal order an appeal was preferred to the Joint Director. The Joint Director set aside the order of dismissal solely on the ground that the enquiry ought to have been conducted by the school committee and not by any outside authority. This view has been upheld by the Educational Tribunal. But learned single Judge of the High Court expressed a contrary view. He held that the school committee must take decision on the misconduct, but enquiry could be conducted by others. There is no requirement under law that the school committee itself must hold the enquiry. He remanded the matter back to the Tribunal for consideration of the other contentions raised in the appeal.

2. The Division Bench of the High Court, however, has set aside the remand order of learned single Judge. It has observed that the Management has no power to constitute any other committee to enquire into the misconduct of teachers and the school committee should itself conduct the enquiry. In support of this conclusion, the Division Bench relied upon paragraph 7 of the Form VII(A) prescribed under the Rules.

3. Hence this appeal by the school management.

4. The argument for the appellant before us is that there is no statutory obligation for the school committee to conduct the enquiry against the school teacher and the enquiry could be held either by the school committee or by any third person. In our opinion, it is unnecessary to decide this issue since the appeal could be conveniently disposed of on another ground. It is not in dispute that the respondent himself demanded that the enquiry should be held by educationists other than the school committee. That request seems to have been necessitated since he has made accusations against the Headmaster of the School. Accordingly a committee of outsiders was appointed to hold the enquiry. The respondent participated in the enquiry and did not at any time raise objection as to the jurisdiction of the committee. He was, therefore, estopped from raising the objection as to the jurisdiction of the school committee. Secondly, the Form No. VII(A) relied upon by the Division

Bench of the High Court is a form under which the agreement shall be executed by the school committee while appointing a school teacher. By consent the terms of the agreement could be changed and that is what the parties seemed to have done in this case.

5. Mr. Rangam, learned counsel for the respondent, relied upon the letter dated 24 April, 1975 said to have been written by the respondent. Counsel wanted to infer from the contents of that letter that the respondent wanted the school committee itself to hold an enquiry against him. But we do not find any support for the contention from that letter. All that he stated in the letter was that the committee should hold an enquiry strictly in accordance with the Act and Rules. Apart from that the letter was written on 25 April, 1975. The Enquiry Committee was constituted on 22nd April, 1975. Even in that letter he did not object to the constitution of the Enquiry Committee.

6. In the result, we allow the appeal, set aside the judgment of the Division Bench and uphold the judgment of the learned single Judge but not for the reasons stated therein.

7. There will be no order as to costs.

Appeal allowed.

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