**IN THE HIGH COURT OF PUNJAB AND** **HARYANA**

LPA Nos. 803, 808 and 809 of 2012

Decided On: 31.05.2012

Appellants: **Mukand Lal National Senior Secondary****School**
**Vs.**
Respondent: **The State of****Haryana** **and Others**

**Hon'ble Judges/Coram:**Satish Kumar Mittal and T.P.S. Menn, JJ.

**JUDGMENT**

**Satish Kumar Mittal, J.**

1. This order shall dispose of aforementioned three Letters Patent Appeals filed by Mukand Lal National Senior Secondary School, Yamuna Nagar, which are arising from the common order dated 10.05.2012 passed by the learned Single Judge. By the said common order, the learned Single Judge had disposed of three different writ petitions filed by the appellant-Management in respect of the orders passed by the District Education Officer and Director, Secondary Education, Haryana, whereby the termination orders passed by the appellant in case of three teachers, namely, Rajinder Singh, Satpal Sharma and Smt. Bindu Sharma, were set aside. As far as Rajinder Singh is concerned, appellant-Management had terminated his services on the ground that the Government had declared 10 posts of teachers as surplus and the Management by making all efforts could not adjust Rajinder Singh, who was a Sanskrit Teacher and, therefore, being surplus, his services were terminated. As far as other two teachers, namely, Satpal Sharma and Smt. Bindu Sharma are concerned, the Management had terminated their services as they had abandoned their services and were also indulging in illegal activities of dharna in front of the Principal's office raising slogans and not coming to the school.

2. It is undisputed position that before terminating the services, the appellant-Management did not seek approval of the Director or his nominee, which was mandatory under Section 8(2) of the Haryana School Education Act, 1995 (hereinafter referred to as the Act of 1995), It is further admitted position that before terminating the services of any of the teachers no departmental inquiry was conducted for the alleged misconduct and abandonment of the services. Against their termination orders, the respondent-teachers filed separate appeals before the District Education Officer, which were allowed vide orders dated 6.4.2011/6.5.2011 and it was held that the action of the appellant-Management in terminating their services was illegal and arbitrary and against the provisions of Haryana Aided Schools(Security of Services) Act, 1971, as no charge-sheet was framed against them, an opportunity of hearing was not provided to them and no approval from the District Education Officer, Yamuna Nagar was taken before terminating their services.

3. Feeling aggrieved against the aforesaid orders, the appellant-Management filed three separate appeals before the Director, Secondary Education, Haryana which were dismissed on 28.7.2011 being devoid of any merit. It was held that as per provision made in Section 8(2)of the Act of 1995, no employee of a recognized private aided school shall be dismissed, removed or reduced in rank nor his services otherwise terminated except with the prior approval of the Director or his nominee. Since the appellant-Management had not taken prior approval of the Director or his nominee before terminating the services of the respondents-teachers, it was held that their termination was illegal and against the provisions of the Act of1995. The appellant-Management challenged the said order of the Director in all the three appeals by filing three separate writ petitions. The learned Single Judge vide common impugned order has dismissed all the three writ petitions. Hence the appeals.

4. We have heard the learned counsel for the appellant and gone through the impugned order. It has not been disputed before us that the services of Satpal Sharma and Smt. Bindu Sharma were terminated without holding any departmental regular inquiry on the ground that they had abandoned the services. The learned Single Judge has come to the conclusion that even in case of abandonment of services, the Management is required to take appropriate disciplinary proceedings because termination of services on the said ground would mean that the Management was imposing a major penalty and that can only be imposed after following the procedure under Rule 110 of the Haryana School Education Rules, 2003 (hereinafter referred to as the Rules') that contemplates constitution of an inquiry, taking a decision on the basis of inquiry report, issuance of notice of the action proposed to be taken and calling upon a delinquent teacher to make the representation and on receipt of such representation determine the quantum of penalty and then refer the matter to the appropriate authority for approval. It was also held that before terminating the services of the respondents-teachers, no approval was taken from the Director or his nominee as contemplated under Section 8(2) of the Act of1995. Therefore, the District Education Officer and the Appellate Authority were within their right while coming to the conclusion that the termination was illegal and the same was rightly set aside and passed the order of reinstatement of the respondents-teachers.

5. Regarding respondent-Rajinder Singh, it was found by the learned Single Judge that even though he was one of the ten teachers, who were declared surplus by the Education Department, but the appellant-Management was not justified to single him out and terminate his services on the ground that the post held by him has been declared surplus. Admittedly, in case of Rajinder Singh also no inquiry was conducted and no prior approval from the Director, Secondary Education was taken before terminating his services. It was also found that when the grant of the school had not been withdrawn, the termination of the services of the surplus teacher was not justified and the said teacher was required to be re-adjusted in some other needy school. The learned counsel for the appellant argued that the appellant-Management was having reasons for terminating the services of the teachers as they were indulging in illegal activities and were not permitting the Management to run the school. He further argued that in such a situation the Management has a right to terminate the services of the defaulting teachers without holding an inquiry and it can justify the termination before the District Education Officer. He argued that in the present case no opportunity was given to the Management by the District Education Officer to justify the termination of the respondents-teachers. This contention of the learned counsel cannot be accepted because before terminating the services of the respondents-teachers, the appellant-Management neither sought prior approval of the Director or his nominee as provided under Section 8(2) of the Act of 1995 nor followed the procedure as laid down under Rule 110 of the Rules while imposing the major penalty of termination of services of the respondents-teachers. Thus, in our view, the learned Single Judge has rightly come to the conclusion that the termination of services of the respondents-teachers were contrary to the provisions of the Act of 1995 and the Rules, and the same were rightly set aside by the District Education Officer and the Appellate Authority, and the said orders could not be assailed in the writ petitions.

In view of the aforesaid, we do not find any ground to interfere in the impugned order. Resultantly, the appeals are dismissed.