



2025:DHC:7257



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Decided on: 22.08.2025***

+ W.P.(C) 10043/2024

NEHA ARORA

.....Petitioner

Through: Mr. Dhron Diwan and Mr. Amit  
Kumar, Advocates.

versus

GURU NANAK PUBLIC SCHOOL & ANR. ....Respondents

Through: Mr. Naginder Benipal, Mr. Ankit  
Siwach, Mr. Udit Vaghela, Mr.  
Sarthak Sethi and Mr. Arjun  
Baliyan, Advocates for R-1.  
Mr. Gaurav Dhingra and Mr.  
Shashank Singh, Advocates for R-  
2.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

1. The petitioner has filed this writ petition under Article 226 of the Constitution directed against a suspension order dated 01.02.2024 issued against her by respondent No. 1 – Guru Nanak Public School [“School”]. She seeks, *inter alia*, quashing of the said suspension order and all consequential proceedings, reinstatement in service, and payment of full salary along with arrears and allowances.
2. The counter affidavit filed by respondent No. 1- School is not on record. A copy has been handed up to the Court, and is taken on record.
3. I have heard Mr. Dhron Diwan, learned counsel for the petitioner,



Mr. Naginder Benipal, learned counsel for respondent No. 1, and Mr. Gaurav Dhingra, learned counsel for respondent No. 2.

4. The petitioner was appointed as a teacher in the School on 15.04.1996. In the impugned suspension order, it is contended that the petitioner misbehaved with students, as captured in CCTV footage. The School Management Committee, at its meeting held on 31.01.2024, directed suspension of the petitioner, although the nominee of the DoE recorded a note of dissent. The resolution was carried by majority, and the petitioner was served with the suspension order dated 01.02.2024.

5. The suspension order was also sent to the DoE for approval under Section 8(4) of the Delhi School Education Act, 1973 [“DSEA”]. The School, thereafter, filed W.P.(C) No. 4569/2024 complaining of DoE’s inaction on the School’s request for approval of the suspension. The writ petition remains pending. It is borne out by the record that DoE ultimately approved the suspension order on 30.08.2024.

6. In the meanwhile, disciplinary proceedings were also commenced against the petitioner, which culminated in an order of compulsory retirement dated 27.09.2024. The petitioner has challenged the said proceedings before the Delhi School Tribunal, which remains pending.

7. The disciplinary proceedings against the petitioner having thus culminated in an order of compulsory retirement, which has been separately challenged, her prayer for reinstatement has been rendered infructuous.

8. As far as the suspension order is concerned, the principal argument of Mr. Diwan is that, under Section 8(4) of the DSEA, prior approval of DoE was required, but was not obtained. The maximum period for which



an employee can be suspended, without approval, being fifteen days, Mr. Diwan, submits that, in any event, the petitioner's suspension dated 01.02.2024 could not have been given effect beyond the period of 15 days, until the order of approval dated 30.08.2024.

9. The effect of the failure of a school to obtain approval of an order of suspension within the aforesaid period of fifteen days has been considered by the Full Bench of this Court in *Delhi Public School & Anr. vs. Director of Education & Ors.*<sup>1</sup>. The Full Bench has clearly stated that an order of suspension lapses after a period of 15 days. A submission was made before the Full Bench, on behalf of the concerned school, that such an interpretation would compel a school to revoke the suspension of an employee, even if the delay in approval is attributable to the DoE, or the DoE deliberately withholds approval without cause. The Full Bench, however, held that the School can approach the Court for a direction upon the DoE to decide the question of approval, and also that a fresh order of suspension can be passed after the approval is granted.

10. The Full Bench further held that, even in the absence of an approval of suspension, a school cannot be compelled to take work from an employee. If an order of suspension has been approved, the employee would be entitled only to subsistence allowance. However, even in the absence of approval of suspension, the School would retain an inherent right not to take work from the employee, but in such a situation, it would be liable to pay the employee's full salary for the period.

11. The relevant observations of the Full Bench are reproduced below:

*"30. In fairness to Mr. V.P. Singh, we may state that the main ground*

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<sup>1</sup> 2002 SCC OnLine Del 1086.



on which he wanted reading down of the provisions of Section 8 of the Act was his apprehension to the effect that even in a case where the alleged misconduct committed by an employee of the school is serious warranting immediate suspension and further even when the circumstances of the case justify the approval by the Director of Education, the Director of Education and/or his subordinate functionaries may defeat the objective by intentionally delaying the matter and thereby ensuring that no decision is taken within 15 days from the date of communication of the order of suspension. We have already stated that the petitioner has not challenged the vires of Section 8 of the Act. That apart, in such a situation the Managing Committee of the school would not be remediless. **Illegal and/or arbitrary exercise of jurisdiction by the Director of Education in a given case can always be subject-matter of judicial review and in such a case it would always be open to the Managing Committee of the school to challenge the inaction and/or wrong decision of the Director of Education.** We may observe here that it is the statutory duty cast upon the Director to take appropriate decision within 15 days as to whether approval is to be given or not. He cannot, by delaying the matter beyond 15 days, make it a fait accompli. **No doubt, if no decision is taken within 15 days from the days of communication of the order of suspension, the necessary consequence thereof is that the suspension order lapses.** However, that does not mean that if no decision is taken at all or the matter is unnecessarily delayed, it would not be permissible for the Managing Committee of the school to insist the Director of Education to take a decision even after 15 days of the communication of the order of suspension. **If such a decision is taken, though belatedly, the fresh order of suspension can always be passed.** Further, if the Director of Education takes a decision and refuses to accord his approval to the order of suspension and if the Managing Committee in such a case feels aggrieved by that decision, it is always open for the Managing Committee to challenge the decision of the Director of Education by appropriate proceedings on well-established grounds of judicial review that would be available to the Managing Committee in a given case.

31. What we are called upon to decide in this case is the effect on the suspension order passed by the Managing Committee under first proviso to subsection (4) of Section 8 of the Act and the effect of non-grant of approval in such a case within a period of 15 days from the date of suspension as contemplated in the second proviso thereof. To that, our answer is that such an order of suspension lapses after a period of 15 days as is clearly contemplated by the second proviso.



32. *It is for the Director of School Education, therefore, to consider as to whether such immediacy was required in the facts and circumstances of the case.*

33. *The matter may also be considered from another angle.*

34. *An employer has an inherent right of suspension in the sense that it may not take any work from its employees. But in such a situation, he has to pay the entire salary to the employee. Thus, where in terms of an order of suspension passed under a statute, the employee would be entitled only to the subsistence allowance, as provided for in the rules, he would, in the event the inherent power of suspension of the employer is taken recourse to, be entitled to full salary.*

35. *In that view of the matter too, despite non-grant of approval by the Director of School Education, the Managing Committee, in the event it is found that it is expedient not to take work from the employee concerned, may take recourse thereto but as noticed hereinbefore, in such a situation, it will have to pay the entire salary and not the subsistence allowance alone.”<sup>2</sup>*

12. Applying the judgment to the facts of this case, Mr. Diwan submits that the petitioner is entitled to full salary for the period 15.02.2024 to 30.08.2024.

13. Having heard learned counsel for the parties, I am of the view that such an order is merited. The suspension order could, without approval of the DOE, be kept in effect only for a period of 15 days, i.e., upto 15.02.2024. Applying the judgment of the Full Bench, the best that the School could have done thereafter is to decline to take any services from the petitioner, but to pay her full salary. The material change in circumstances occurred only on 30.08.2024, when the DOE's order of approval of suspension was passed.

14. At the very least, therefore, the petitioner is entitled to full salary

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<sup>2</sup> Emphasis supplied.



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for the period 16.02.2024 to 30.08.2024. The School is directed to make payment of the said amount within a period of six weeks from today.

15. Learned counsel for the School and DOE have joined issue as to whether the delay in approval was on grounds attributable to the DOE or to the School. As far as this aspect is concerned, I am of the view that such a dispute cannot come in the way of the petitioner being granted her dues. If the School wishes to assert a claim for recovery against the DOE, it is at liberty to do so, in accordance with law.

16. These directions are without prejudice to the rights and contentions of the parties in the pending appeal against the order of compulsory retirement. It is made clear that this Court has not adjudicated upon the merits of the suspension order.

17. The writ petition is accordingly disposed of.

**PRATEEK JALAN, J**

**AUGUST 22, 2025**

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