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

% *Date of Decision: 21.04.2026*

+ **LPA 23/2023**

PARVESH BATRA

.....Appellant

Through: Mr. R.K. Saini with Mr. Abhishek,  
Advocates.

versus

P K JAIN & ANR.

.....Respondents

Through: Mr. Arun Bhardwaj, Senior Advocate  
with Mr. Nikhil Bhardwaj, Advocate  
for R1.  
Ms. Latika Chaudhry, Advocate for  
R2.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)**

**CM APPL. 26060/2026(For Restoration)**

1. This is an Application filed on behalf of the Appellant seeking restoration of the instant Appeal.
2. Having heard the learned Counsel for the Parties and perused the averments made in the Application, we are satisfied that the cause shown is sufficient. Accordingly, the order dated 16.04.2026 is hereby recalled and the present Appeal is restored to its original number and position.
3. The Application stands allowed and disposed of.

**LPA 23/2023**

4. Heard the learned Counsel for the Parties.
5. With the consent of the learned Counsel for the Parties, this Appeal has been taken up and is being decided at the admission stage itself.



6. The instant *intra-court* Appeal seeks to challenge the Judgment and Order dated 11.11.2022 passed by the learned Single Judge (“**Impugned Judgment**”) whereby W.P.(C) 5570/2012 (“**Writ Petition**”), proceedings of which were instituted by Respondent No. 1, has been allowed and the order dated 09.08.2012 passed by the Delhi School Tribunal (“**Tribunal**”) has been quashed.

7. The facts leading to filing of the instant Appeal in brief are as under:

- i. The Appellant was appointed by means of an order dated 08.07.2008 as Trained Graduate Teacher (Maths) by the Respondent-Institution on a probation of two years.
- ii. The probation period, in ordinary course, as per the stipulation made in the appointment order, would have ended on 07.07.2010, however on 21.07.2010, the probation period of the Appellant was extended, whereafter, it was again extended on 27.06.2011 for a period of six months.
- iii. *Vide* an order dated 07.10.2011, the services of the Appellant as probationer were discharged.
- iv. Against the order terminating the services dated 07.10.2011, the Appellant preferred an appeal before the Tribunal, which was allowed by the Tribunal by means of an order dated 09.08.2012.
- v. The Respondent-Institution, thereafter, instituted the proceedings of the Writ Petition challenging the order dated 09.08.2012 passed by the Tribunal. The said Writ Petition has been allowed by the learned Single Judge by means of the Impugned Judgment, which is under challenge herein before us in this Appeal.



8. The Tribunal *vide* its order dated 09.08.2012 returned a finding that the order terminating the services of the Appellant dated 07.10.2011 was vitiated on two grounds; firstly, because in the facts of the case, it was a case of deemed confirmation of the services of the Appellant and, therefore, the order terminating his services simplicitor could not have been passed for the reason that no formal disciplinary proceedings were instituted into the alleged misconduct of the Appellant, and secondly, because in terms of the requirement of seeking prior permission for terminating the services of a probationer in terms of the second proviso appended to Rule 105 of Delhi School Education Act and Rules, 1973 (“**Rules**”), no prior permission of the Director of Education was obtained by the Respondent-Institution.

9. It has been contended by the learned Counsel for the Appellant that so far as the issue as to whether the services of the Appellant ought to have been treated to be confirmed is concerned, the same is no more *res integra* in view of the judgment rendered by the Division Bench of this Court on 14.10.2015 in LPA No. 457/2012, ***Kasturi Ram International School and Anr. v. Directorate of Education and Anr.*** However, he has stated that the other ground, on which the Tribunal had allowed the appeal preferred by the Appellant against the order of termination, namely that the order of termination was vitiated on account of the fact that no prior permission as per the requirement of the second proviso appended to Rule 105 of the Rules from the Director of Education was obtained, has not been dealt with at all.

10. Accordingly, in his submission, it has been urged by the learned Counsel for the Appellant that for adjudication of the said issue, the matter needs to be remitted to the learned Single Judge.



11. Opposing the Appeal, however, the learned Counsel for Respondent No. 1-Institution has submitted that though prior permission of the Director of Education for terminating the services of the Appellant as probationer was not accorded, however, the Management of the Institution concerned has been consistently writing to the authorities of the Directorate of Education seeking their permission for terminating the services of the Appellant as probationer but such letters/correspondences/requests were not appropriately responded to. He has further stated that under these circumstances, considering the absolutely unsatisfactory services of the Appellant, the Management of the Institution was left with no other option but to terminate his services as probationer.

12. Our attention has been drawn by the learned Counsel for Respondent No. 1-Institution to Paragraph No. 8 of the Impugned Judgment rendered by the learned Single Judge, wherein submission made on behalf of the Institution to the effect that it had sought approval of the Director of Education seeking termination of the services of the Appellant, has been recorded, however, despite noticing the said submission, no finding has been returned by the learned Single Judge.

13. The learned Counsel for the Appellant has referred to CM APPL. No. 29200/2022 filed by the Respondent-Institution in the proceedings of the Writ Petition before the learned Single Judge, along with which various documents were annexed, which according to the learned Counsel for the Respondent-Institution reflected that the Management of the Institution has been persistently pursuing the matter with the officials of the Directorate of Education seeking prior permission for terminating the services of the Appellant in terms of requirement of second proviso appended to Rule 105



of the Rules.

14. Even in the instant Appeal, by means of CM APPL. No. 58252/2025, certain documents have been brought on record of this Appeal, which according to the learned Counsel for Respondent No. 1, are a clear reflection of the fact that the Respondent-Institution has consistently been pursuing with the officials of the Directorate of Education seeking requisite prior permission for terminating the services of the Appellant.

15. In the aforesaid view of the matter, it has been argued on behalf of the Respondent-Institution that the learned Single Judge ought to have recorded a finding on the submission made on behalf of the Institution that no fault could be attributed to the Management of the Institution once the matter with the Directorate of Education was consistently pursued seeking the requisite prior permission for terminating the services of the Appellant.

16. The learned Counsel representing the Directorate of Education, however, stated that the Directorate of Education was not given any opportunity to rebut the averments made and the documents enclosed with CM APPL. No. 29200/2022 in the proceedings of the Writ Petition before the learned Single Judge and as such she is not in a position either to deny or admit the documents enclosed with the said application.

17. Having heard the learned Counsel for the Parties and perused the records available before us, we are of the considered opinion that the second ground urged by the learned Counsel for the Appellant impeaching the order dated 07.10.2011, whereby the services of the Appellant were terminated as probationer, has not been considered by the learned Single Judge in the Impugned Judgment.



18. From a perusal of the Impugned Judgment passed by the learned Single Judge, what we unambiguously find is that the Writ Petition has been allowed only on one ground, which is based on the judgment rendered by the Division Bench of this Court in LPA No. 457/2012, dated 14.10.2015. However, the ground urged by the learned Counsel for the Appellant that the order terminating the Appellant's services was vitiated on account of the fact that no previous permission of the Director of Education was obtained for terminating his services, has not been considered by the learned Single Judge.

19. A perusal of the Impugned Judgment does not reveal any consideration made to the said aspect of the matter or any finding returned thereon. In view of the aforesaid, we are of the opinion that the matter needs to be remitted to the learned Single Judge.

20. Resultantly, the Appeal is allowed and the Impugned Judgment passed by the learned Single Judge in the Writ Petition is hereby set aside. The Writ Petition is restored to its original number, which shall be decided afresh by the learned Single Judge.

21. We, however, make it clear that the matter is being remanded to the learned Single Judge for decision on the following issues only:

- a) As to whether the order terminating the services of the Appellant dated 07.10.2011 is vitiated for want of requisite prior permission of the Director of Education in terms of the statutory requirement of Rule 105 of the Rules.
- b) As to whether before passing the order terminating the services of the Appellant, dated 07.10.2011, the Respondent-Institution has made any



application or prayer to the Directorate of Education seeking the requisite prior permission of the Director of Education for terminating the services of the Appellant and as to whether if any such effort was made by the Appellant, what was the response of the Directorate of Education in this regard.

22. For considering the aforesaid two aspects of the matter, the averments made and the documents enclosed with CM APPL. No. 29200/2022 in the Writ Petition shall also be considered by the learned Single Judge, of course after giving adequate opportunity to rebut to the same to the Appellant, as also to the Directorate of Education.

23. Having regard to the fact that the Parties have been in litigation for a considerable time, we request the learned Single Judge to expedite the proceedings of the Writ Petition and decide the same as expeditiously as possible. We also direct that till the decision of the Writ Petition afresh, in terms of this Order, the order dated 09.08.2012 passed by the Tribunal shall not be given effect to and the same shall abide by the final outcome of the Writ Petition.

24. No orders as to cost.

**DEVENDRA KUMAR UPADHYAYA, CJ**

**TEJAS KARIA, J**

**APRIL 21, 2026/sms**