



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 11363/2024

Manju Garg W/o Shri Vishnu Garg, aged about 56 years, R/o
Maladevi Mohalla, Baran Police Station, Baran, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Education (Primary), Government of Rajasthan, Government Secretariat Jaipur Rajasthan.
2. Director, Primary Education, State of Rajasthan, Bikaner, Rajasthan.
3. Joint Director, School Education, Division Kota, Education Department, State of Rajasthan, Kota, Rajasthan.
4. District Education Officer, Head Quarters (Primary), Baran, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Himanshu Jain, Adv.

For Respondent(s) : Mr. G.K. Sharma, Addl. G.C.

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

Order

Reserved on 23/07/2024

Pronounced on 31/07/2024

Reportable

"Only a great teacher can mould a great student."

1. A teacher plays most important role in the life of every student. According to Hindu Mythology, importance of the teacher is greater than importance of the God.

2. A teacher plays an important role in moulding the youth and the children of a nation into worthy citizens of the future. Teachers are often recognised as 'nation builders' for they are instrumental



in shaping the citizens of future of a nation. Thus, the teachers are required to shoulder tremendous responsibility, which needs no further amplification. The quality of education imparted to the future citizens of the nation depends upon the quality of teachers, who are appointed to teach them.

3. Education provides opportunities for multi-dimensional developments of potentialities in the individuals of the nation, who in turns are responsible for the development of the nation. Education is the fundamental right of every citizen in India, which has been established as per the Constitution (Eighty-Sixth Amendment) Act, 2002 via insertion of Article 21-A. Thus, it is essential for the country to not only achieve the object "Education for all" but also, "Quality education for all".

4. The rampant practice of proxy teachers in government schools is a blot on the noble profession, as it deprives children of quality education, disrupting the administration, in stark contrast of the vocation and over-shadowing the sacrifices of those genuinely putting their hearts into their work.

5. It is a shame to see the presence of proxy teachers taking over the government run schools. Unemployed youths, who may not even have the basic qualifications to teach, are representing the genuinely employed teachers in the institutions meant to build and educate the human resources. The World Bank study book titled as "*Getting the right teachers into the right schools: Managing India's teacher workforce*", released in the year 2018, reveals the shocking state of affairs that proxy teachers have taken over teaching in few states of the country. The study reveals



that ".....an alarming problem reported by a few states in the study is that of proxy teachers, whereby a teacher appointed by the government illegally appoints another person to work in his/her place for some considerations".

6. The appointment of proxy teachers in government schools 'illegally', painted a very negative image of the education scenario and depicts a failure of the system and more so, it has worsened the quality of education at so many levels. Many government employed teachers, in their own place send their proxies, who may not even have the basic qualifications, to teach the students. By doing such an illegal act, such teachers are playing with the future and career of the students at large.

7. To tackle the real teacher absenteeism and use of the proxy teachers in government schools, this Court would issue appropriate directions before parting with the order. However, before such directions are passed, this Court deems it just and proper to decide the present petition submitted by the petitioner.

8. The instant petition has been filed against the impugned order dated 22.12.2023 passed by the respondents by which the petitioner has been placed under suspension, whereby, her headquarters has been changed from her present place of posting i.e. Chhipabarod, District Baran to Bikaner, and apart from the above, a charge-sheet has also been issued to the petitioner under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for short, 'the Rules of 1958').

9. Learned counsel for the petitioner submits that the petitioner was appointed on the post of Teacher Grade-III at the



Government Primary School, Rajpura, District Baran and on account of her illness, she was on leave. Learned counsel submits that during the said period a false and fabricated FIR bearing No.316/2023 was registered against her at the Police Station Sadar Baran, District Baran for the offences punishable under Sections 420, 419, 467, 468, 471 and 120-B IPC by the complainant-Tejesh Suman allegedly due to some political vendetta and personal ill-will against the petitioner, with the allegation that some dummy person was performing the duties of the petitioner in the school in her absence. Learned counsel submits that the said complainant-Tejesh Suman is a person having criminal antecedents, against whom several FIRs have been registered. Learned counsel submits that without conducting any Preliminary Enquiry and without recording any fact or finding, the petitioner has been placed under suspension vide impugned order dated 22.12.2023 and her headquarters has been changed from the office of Chief Block Education Officer, Chhipabarod, District Baran to the Directorate of Elementary Education, Bikaner and a charge-sheet under Rule 16 of the Rules of 1958 has been issued against the petitioner. Learned counsel submits that the allegations/charges levelled against the petitioner are far from truth, hence under these circumstances, interference of this Court is warranted.

10. In the alternative, learned counsel for the petitioner submits that in case, this Court is not inclined to interfere in the matter, at least the order of changing the headquarters of the petitioner be



quashed and set aside so that the petitioner can participate in the departmental proceedings.

11. Per contra, learned counsel for the respondent-State opposed the arguments raised by the learned counsel for the petitioner and submitted that, serious allegations of misconduct have been levelled against the petitioner, wherein it has been alleged that some dummy candidate was teaching the students and discharging the duties of the petitioner in her absence. Learned counsel submits that for the aforesaid act/misconduct of the petitioner, not only an FIR has been registered against her but departmental proceedings have also been initiated under Rule 16 of the Rules of 1958. Learned counsel submits that as a consequence thereof, the petitioner has been placed under suspension and her headquarters has been changed. Learned counsel submits that the matter requires to be examined by the disciplinary authority, after holding enquiry against the petitioner. Hence, under these circumstances, interference of this Court is not warranted.

12. Heard and considered the submissions made at Bar and perused the material available on record.

13. It is settled proposition of law that charge-sheet cannot be quashed, prior to conducting of the enquiry on the ground that the facts stated in the charge were erroneous, as it is well settled that the correctness or truth of the charge is the function of the disciplinary authority, as has been held by the Hon'ble Apex Court in the case of **State of Orissa Vs. Sangram Keshari Misra**: reported in **2010 (13) SCC 311**.



14. The respondents are not precluded from initiating the enquiry against an employee for any misconduct or violation of the Conduct Rules, even if the same has taken place, while performing or non-performing official functions and discharging the duties. The authorities can place such person under suspension under Rule 13 of the Rules of 1958.

15. In the considered opinion of this Court, a writ petition generally does not lie against the charge-sheet, unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings.

16. It is settled proposition of law that charge-sheet cannot be interfered with by the Court lightly or in a routine manner. The delinquent employee instead of seeking quashing of the charge-sheet, at the initial stage, must submit his reply before the Enquiry Officer/Disciplinary Authority and wait for conclusion of the proceedings.

17. As a result, the writ petition stands dismissed being devoid of merit. However, the disciplinary authority is directed to consider the representation/reply submitted by the petitioner, before taking any final decision. The disciplinary authority is further directed to conclude the proceedings, expeditiously as early as possible, if not completed already, preferably within a period of six months from the date of receipt of certified copy of this order, after affording due opportunity of hearing to the petitioner.

18. Before parting with the order, this Court takes a serious note of the situation where ineligible and unqualified proxy teachers are



teaching the students in various government schools in place of the originally posted/appointed teachers.

19. In order to curb this rampant practice of proxy teaching in government schools, this Court issues a general mandamus to the Government of Rajasthan including the Chief Secretary of the State, the Additional Chief Secretary, the Principal Secretary, and the Directors of the Elementary and Secondary Education to look into the matter and take immediate steps to resolve the situation of proxy teaching in the government schools and to come out with a solution to stop such illegal practice of proxy teaching.

20. By way of an interim measure, this Court issues the following directions to the Chief Secretary, Government of Rajasthan; the Additional Chief Secretary; the Principal Secretary; and the Directors of the Elementary and Secondary Education, to constitute different kinds of committees at the State level, District level, Urban and Rural Block level including the District Education Officer and Chief Executive Officers by framing a **“Zero Tolerance Policy of Proxy Teachers”** with campaign supporting the motto that “Attendance of teachers in school is must and proxy teachers are not acceptable in any way”. For implementation of the above policy and campaign, the respondents and above officials are directed as follows:-

- (i) To constitute different committees and form flying squads to suddenly inspect all the government run schools of the entire State of Rajasthan, on a regular basis to check, whether the actual teachers or the proxy teachers are teaching in the schools.



(ii) In case any proxy teachers are found teaching the students, in the government run schools, then an enquiry shall be conducted against such absentee-teachers and their proxies, after affording them due opportunity of hearing. After following the due established process of law, the authorities are directed to take appropriate actions against all the delinquents who are found guilty by way of lodging FIRs against them and initiate disciplinary proceedings against them, under the provisions of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958. In case they are found guilty, then appropriate punishment order be passed against them, including recovery of salary with interest, which they received during the intervening period of their absence and proxy teaching.

(iii) The Department of Education is directed to take appropriate steps to display the photographs of the teachers, appointed by them to teach in the schools, so that the students and the administration can easily distinguish between the real teachers and their substitutes/proxies. Such display of photographs of the teachers would also facilitate the parents in knowing the identities of the actual teachers of their children. This awareness will empower them to raise concern, if a teacher is found absent without any valid reason.

(iv) The respondents are further directed to issue notifications, circulars, notices to the Head of the



Government Schools, Principals, Head Masters, Elementary and Secondary Education Officers and the District Education Officers in order to ensure that no teacher, under their establishment, is engaged in the practice of proxy teachings. Let a strong message be circulated amongst all such officers, by warning them, that apart from the teachers served with show cause, action would also be taken against each one of the erring officials and the Head of the school as well as the officer, in whose jurisdiction such practice is taking place.

(v) Appropriate directions be issued to all the Heads of the institutions and Officers that, failure to comply with these directions would lead to initiation of strict disciplinary action against them with suspension including termination from the service, if the charges are found to be proved, after holding an enquiry against them and after following due process of law.

(vi) The Government of Rajasthan and Department of Education are directed to launch a website and portal regarding establishment of a complaint mechanism for the public at large, to make complaint against the proxy teachers. The website and the complaint portal will contain the contact details of the District Education Officer and the Chief Executive Officer of all the districts of the State and a toll free number as well.

(vii) Appropriate steps be taken by the Government for effective implementation of the Scheme/Policy/Drive





regarding **“Zero Tolerance Policy on Proxy Teachers”**.

21. Let a compliance report regarding the steps taken by the State, be submitted to this Court at the end of every quarter of the year i.e. March, June, September and December alongwith the steps taken by the concerned authorities.

22. Disobedience of the Court orders strike at the very root of Rule of Law, as judicial orders are bound to be obeyed at all costs. It is made clear that if any willful disobedience is made by the respondents, in compliance of the order/directions issued by this Court, then the same would be viewed seriously and would further amount to Contempt of Court.

23. Office is directed to send a copy of this order to the Chief Secretary, Government of Rajasthan; the Additional Chief Secretary; the Principal Secretary and the Directors of Elementary and Secondary Education for making compliance of the directions of this Court.

24. Needless to state that what has been observed in this order is to curb the situation of proxy teaching in government schools of the State of Rajasthan. The respondents would be at liberty to proceed with the departmental enquiry independently, after affording due opportunity of hearing to the petitioner, without being influenced by any of the observations made by this Court and proceed with the matter on the basis of the evidence, led by both the sides.



25. List the matter before this Court on 07.10.2024 to check the steps taken by the respondents, for making compliance of the directions issued by this Court.



MADAN, JrPA

(ANOOP KUMAR DHAND),J