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

\+ W.P. (C) 597/2017

KALPANA MEHDIRATTA ..... Petitioner
Through: Mr. Padma Kumar S, Mr. Praveen Kumar Mehdiratta, Mr. S.C. Pandey and Mr. Ram Singh, Advs.

versus

AIR FORCE BAL BHARATI SCHOOL & ORS .. Respondents
Through: Mr. Arvind Nayar, Sr. Adv, Mr. Sachin Dutta, Sr. Adv. with Ms. Garima Sachdeva, Adv. for R-1, 2, 3 & 4

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T

% 02.12.2019

1. The petitioner Kalpana Mehdiratta challenges, by means of this writ petition, the selection and appointment of Respondent No. 6 Ms. Mani Shankra, as Vice-Principal of the Respondent No.1-School (hereinafter referred to as "the School") by a Departmental Promotion Committee (DPC) which met, for the said purpose, on 26th June, 2015. She also prays that she be promoted as Vice-Principal, in place of Respondent No. 6, with effect from the date of promotion of Respondent No. 6, i.e. 1st July, 2015.

Facts

2. The petitioner was appointed as Trained Graduate Teacher (English) in the School, on 30th July, 1983, and was promoted as Post Graduate Teacher (English) on 18th March, 1991.

3. As the Vice-Principal of the School was scheduled to retire on 30th November, 2013, applications, for appointment, to the vacancy that would arise as a result thereof, were invited. The petitioner applied. The applicants, including the petitioner, were interviewed by the DPC, which met, for the said purpose, on 11th November, 2013.

4. The candidates were awarded marks, by the DPC.

5. Respondent No. 5 Smt. Sunita Gupta was selected and appointed as Vice-Principal, having scored 115. The petitioner, who scored 111, was placed at serial no. 3 and Respondent No. 6, who scored 106, was placed at serial no. 5.

6. The gradings awarded to the petitioner, in her Annual Confidential Reports (ACRs), for the years, 2009-2010 to 2013-2014, were communicated to her. Though the petitioner was graded "outstanding", for the year 2009-2010, she was graded "very good" for the years 2010-2011, 2012-2013 and 2013-2014, and "good" for the year 2011-2012.

7. She represented, on 26th March, 2014, against the gradings awarded to her, for the years 2010-2011, 2011-2012, 2012-2013, and

2013-2014, seeking that her overall gradings, for the said years, be upgraded to "outstanding". The said representation was rejected by Respondent No. 3 on 5th May, 2014.

8. In the writ petition, the petitioner has disputed the competence of Respondent No. 3 to have considered her representation, and has contended that the representation was required to be considered by the officer, higher in rank, of Respondent No. 3, being the Air Officer Incharge (Admn.). However, as no challenge, to the said decision, dated 5th May, 2014, of Respondent No. 3, has been laid by the petitioner, in these proceedings, the grievance of the petitioner, in that regard, is not of much significance.

9. The selection and appointment, of Respondent No. 5, as Vice-Principal, by the DPC which met, for the said purpose, on 11th November, 2013, was challenged by the petitioner, before this Court, by way of WP (C) 481/2014.

10. During the pendency of the said proceedings, on 17th November, 2014, Respondent No. 5 was promoted as Principal.

11. WP (C) 481/2014 was dismissed *vide* judgment dated 8th April, 2015, and LPA 363/2015, preferred against the said judgment, was also dismissed, by a Division Bench of this Court, on 10th February, 2016.

12. In the interregnum, Respondent No. 5 was promoted as Principal, by a DPC which met on 17th November, 2014. The said promotion has been challenged, by the petitioner, before this Court, by way of WP (C) 8167/2015, which is presently pending.

13. Though the above facts have been reproduced, from the recitals in the writ petition, they are not of any real significance, insofar as determination of the controversy in issue, in the present case, is concerned.

14. In December 2014, the School again invited applications for the post of Vice-Principal, from eligible candidates.

15. It is not in dispute that the post of Vice-Principal was of a promotion post to be filled by selection, for which the DPC was required to consider the ACRs for the preceding five years.

16. In response to the aforesaid notification of December 2014, on 11th December, 2014, the petitioner applied for being considered for the post of Vice-Principal.

17. The DPC, convened, for considering the applications for selection and appointment as Vice-Principal, only on 26th June, 2015.

18. The petitioner has emphatically contended, in the writ petition, that the convening of the DPC was consciously delayed, so that the ACR, for the year 2014-2015 would become available, and the ACR

for the year 2009-2010, in which she was graded "Outstanding", and Respondent No. 6 – who came to be selected as Vice-Principal, and whose selection is impugned in these proceedings – was only graded "Good", would be omitted from consideration. A comparative tabular statement of the overall gradings awarded to the petitioner and Respondent No. 6, for the years, 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014, may be presented thus:

Year	Petitioner	Respondent No. 6
2009-10	Outstanding	Good
2010-11	V. Good	Good
2011-12	Good	Good
2012-13	V. Good	V. Good
2013-14	V. Good	V. Good

19. After the 2014-2015 ACR, of the candidates who had applied for being considered for selection as Vice-Principal, had been written and had become available, applications were again invited, from the five senior most PGTs – including the petitioner – for being considered for the post of Vice-Principal on 3rd June, 2015.

20. The petitioner re-submitted her application and consent form, for being considered, on 17th June, 2015.

21. The DPC, for the said purpose, was held on 26th June, 2015, pursuant whereto Respondent No. 6 was selected and appointed as Vice-Principal, with effect from 1st July, 2015.

22. Aggrieved thereby, the petitioner has moved this Court, by means of the present writ petition.

Submissions and Analysis

23. The primary contentions of the petitioner, in this writ petition, may be enumerated thus:

(i) Despite invitation of applications, from the eligible PGTs, in December, 2014, the convening of the DPC was consciously delayed till June, 2015, so as to exclude the ACRs, for the year 2009-2010, from consideration, and bring, into the reckoning, the ACRs for the year 2014-2015.

(ii) Respondent Nos. 3, 4 and 5, who were members of the DPC, were biased against the petitioner. Of the three, (a) Respondent No. 3, who chaired the DPC, had also chaired the earlier DPCs, which met on 11th November, 2013 and 17th November, 2014, and selected Respondent No. 5 as Vice-Principal, and as Principal, respectively, (b) Respondent No. 5 had been selected and appointed as Vice-Principal, and as Principal, in preference to the petitioner, and her appointments, to the said positions, had been challenged, by the petitioner, before this Court, and (c) Respondent No. 4 was a subordinate officer, working under Respondent No. 3 and had, moreover, signed the affidavit, before this Court, in WP (C) 8167/2015, disputing the stand of the petitioner. All these respondents were, therefore, biased against the petitioner.

(iii) Propriety demanded, in fact, that these respondents recuse themselves from participating in the DPC wherein the case of the petitioner was being considered.

(iv) The petitioner's ACRs for the year 2013-2014, had been tampered with. In this context, the petitioner avers thus:

(a) The ACR consisted of two parts, namely part A and part B, and two annexures, namely, Annexures A and B thereto.

(b) Parts A and B of the ACR consisted of eleven pages, and Annexures A and B thereto consisted of four additional pages.

(c) The petitioner had filled in the details in all the eleven pages of the ACR as well as four additional pages constituting Annexures A and B and had appended her signatures at the head of each page, in the space allocated therefor.

(d) On 19th November, 2014, the petitioner requested that she be provided a copy of the 2013-2014 ACR. The School did not do so, whereupon the petitioner had to approach this Court by way of CM 24271/2016 in WP (C) 8167/2015. Consequent to directions issued, in the said application, by this Court, on 12th July, 2016, a

purported certified copy of the 2013-2014 ACR was supplied to the petitioner on 26th August, 2016.

(e) That the purported certified copy was tampered and, therefore, unreliable, while considering the case of the petitioner for promotion as Vice-Principal, was manifest from the following:

(i) Page No. 11 of the ACR, as well as Annexures A and B thereto, were altogether removed.

(ii) At page No. 10 of the ACR, it had been mentioned, by Respondent No. 7, in his remarks, that the ACR of the petitioner had been lost/misplaced. No such comments were, however, entered either by the Vice-Principal or by the Principal, in the ACR, as Reporting and Reviewing Officer respectively. Nor did either of the said officers record, in the ACR, that they were recording the comments, therein, a second time.

(ii) The remark, that the ACR of the petitioner had been lost/misplaced, was, obviously, false, as the first eight pages were intact and bore the petitioner's signatures at the head thereof.

(iii) Respondent No. 7 entered remarks, in page 10 of the ACR, allegedly a second time, on 23rd February, 2015, by which time he had already been transferred out of Delhi in April-May, 2014. It was impossible to understand, therefore, how he remembered, eight months after he had been transferred out of Delhi, that the petitioner had been graded "good" in her ACR.

(iv) The four additional pages, consisting of Annexures A and B to the ACR, wherein the petitioner had referred to the additional responsibilities shouldered by her during the year, as well as co-curricular activities and achievements, were missing, though there was specific reference, thereto, in the ACR itself.

(v) On the petitioner pointing out this fact, the School responded, *vide* letter dated 17th August, 2016, that there was no page No. 11, in the ACR as submitted by the petitioner, and that Annexures A and B thereto were also missing.

(f) In view of the controversy regarding the ACR of the petitioner for the year 2013-2014, this Court ordered the School, on 23rd August, 2016, to file an affidavit in this regard.

(g) Respondent No. 4, as Executive Director and Manager of the School, filed an affidavit, on 23rd September, 2016, deposing, on oath, that Annexures A and B to the ACR were not available in the record of the School.

24. For the aforesaid reasons, the petitioner prays, in the writ petition, that the impugned promotion, of Respondent No. 6, as Vice-Principal, be set aside, and that she be promoted as Vice-Principal in her place.

25. Separate counter-affidavits, in response to the writ petition, have been filed by Respondents No. 1 to 3, and by Respondents No. 5 and 6. Rejoinders, thereto, have also been filed by the petitioner. Subsequently, written submissions have also been filed by the petitioner, as well as by Respondents No. 1 to 4. Pursuant to directions issued by this Court, the minutes of the DPC, dated 26th June, 2015, with which the present writ petition is concerned, have also been placed on record. Reference, to these documents, and the contents thereof, to the extent they are relevant, would be made hereinafter, at the appropriate stage.

26. Proceeding, now, to examine the contentions, advanced by the petitioner, seriatim.

Applicability of Office Memoranda, dated 8th September, 1998, 16th June, 2000 and 8th February, 2002, issued by the DOPT

27. Considerable reliance has been placed, by the petitioner, on Office Memoranda issued by the DOPT, specifically on the Office Memoranda (OMs) dated 8th September, 1998, 16th June, 2000, and 8th February, 2002. It is sought to be contended, on the basis of the OM dated 8th September, 1998, read with the OM dated 16th June, 2000, that, as the vacancy/panel year, for which the DPC met on 26th June, 2015, was 2014-2015, ACRs, up to the year 2012-2013, were required to be taken into consideration. For this purpose, reliance has been placed on the following clarification, contained in OM dated 16th June, 2000, issued by the DOPT:

> "In regard to operation of the Model Calendar for DPCs, a doubt has been raised by certain quarters as to the question of the relevant year up to which ACRs are required to be considered by the DPCs. In this connection, it is once again clarified that only such ACRs should be considered which become **available** during the years immediately preceding the vacancy/panel years even if DCPs are held later than the schedule prescribed in the Model Calendar. In other words, for the vacancy/panel year 2000-2001, ACRs up to the year 1998-99 are required to be considered irrespective of the date of convening of DPC."

28. Reliance has been placed, in the aforesaid context, by the petitioner, on the decision in ***S. B. Bhattacharjee v. S. D. Majumdar***[1].

29. To the respondent's response, in this context, that instructions issued by the DOPT were not applicable to the School, the petitioner

[1] **(2007) 10 SCC 513**

has, in her written submissions, rejoined that the DPC procedure, as outlined in the minutes of the DPC which met on 26th June, 2015, themselves reproduce, verbatim, paras 6.1.3, 6.1.4 and 6.2.1 (e) of the OM, dated 10th April, 1989, of the DOPT. This, according to her, amounts to an acknowledgement, by the School, regarding the binding nature of the OMs, issued by the DOPT, on the School.

30. I find myself unable to agree.

31. The very title, of para 6 of the Minutes of the DPC, which met on 26th June, 2015, reads "DPC rules in conformity with Para 6 Rule 96 of DSEAR 1973". The applicability, to the School, of the Delhi School Education Rules, 1973 (hereinafter referred to as "the DSEAR 1973"), is not in dispute. Rule 96 of the DSEAR 1973 specifically covers "Recruitment", and figures in Chapter VIII of the DSEAR, which is titled "Recruitment and Terms and Conditions of Service of Employees of the Private Schools other than Unaided Minority Schools". Sub-rule (2) of Rule 96 prescribes that "recruitment of employees in each recognised private school shall be made on the recommendation of the Selection Committee". Sub-rule (6) of Rule 96 allows the Selection Committee to regulate its own procedure. There is nothing, to be found in the Delhi School Education Act, 1973, or in the DSEAR, 1973, which indicates that Office Memoranda, issued by the DOPT, or any other authority, governing DPCs are, *mutatis mutandis* or otherwise, applicable to DPCs convened by the School. The School has, for its part, categorically denied the applicability, to the DPCs convened by it, of Office Memoranda issued by the DOPT,

and has averred, *per contra*, that it is governed only by Rule 96 of the DSEAR 1973 and that, but under Sub-rule (6), thereof, DPCs, which convened for making promotions to positions in the School, were free to devise their own procedure. This Court is, therefore, unable to find anything remiss, in the DPC, which met on 26th June, 2015, devising its own procedure, which stands set out in para 6 of the Minutes of the said DPC. The reliance, by the petitioner, on the Office Memoranda, dated 8th September, 1998, 16th June, 2000th and 8th February, 2002, issued by the DOPT is, therefore, in the opinion of this Court, thoroughly misplaced.

32. The Minutes of the DPC which met on 26th June, 2015, do not contain any stipulation, akin to the clarification, provided in the OM, dated 16th June, 2000, issued by the DOPT and reproduced in para 27 above. The procedure contemplated by para 6 of the DPC, which met on 26th June, 2015, merely states that the DPC would peruse the ACR's "for five preceding years". The Respondents have contended that the "preceding years", were reckoned with respect to the date when the DPC met, and this Court is unable to discern any inherent infirmity in the said decision. The ACRs, up to the year 2014-2015, were available, not only on the date when the DPC met, but even on 3rd June, 2015, when applications were invited, from the five senior most PGTs, for the said post. If, therefore, the DPC decided to consider ACRs, from 2010-2011 till 2014-2015, no occasion arises, for this Court, to interfere therewith, or to hold that the ACRs, for the years 2013-2014, and the 2014-2015, ought not to have been taken into consideration by the DPC.

33. Incidentally, in this context, it may be noted that the earlier DPC, which had met on 11th November, 2013, and had considered the cases of various candidates, including the petitioner, for the post of Vice-Principal of the School, also took, into consideration, ACRs, from 2008-2009 till 2012-2013. Though the petitioner challenged the decision of the said DPC, no contention, questioning the decision, of the DPC, to take, into consideration, the ACR for the year 2012-2013, was advanced, by the petitioner before this Court. Though, needless to say, this does not estop the petitioner from contending, in the present case, that the DPC, which met on 26th June, 2015, ought to have taken, into consideration, ACRs till the year 2012-2013, and no further, the fact that such a stance was not adopted, by the petitioner, while challenging the earlier DPC, which considered her case for the post of Vice-Principal, somewhat dilutes the strength of her contention. That apart, this Court also finds, as noted hereinabove, that there is no legal justification for the said contention of the petitioner, as the "clarification", contained in the OM, dated 16th June, 2000, of the DOPT, cannot be applied to the School, and no such stipulation finds place in the procedure for the DPC, as outlined in para 6 of the Minutes of the DPC, which met on 26th June, 2015.

34. The contention, of the petitioner, that the DPC, which met and considered case for the post of Vice-Principal on 26th June, 2015, ought not to have taken, into consideration, the ACRs for the years 2013-2014 and 2014-2015 is, therefore, rejected.

35. As this Court has found that the OMs issued by the DOPT could not be said to bind the DPCs, convened by the School, for considering cases for promotion within its ranks, the reliance, by the petitioner, on the OM, dated 8th February, 2002, of the DOPT, too, has to be regarded as misplaced. The petitioner relies on the said OM in view of the following stipulation, contained therein:

> "Thus there shall be no supersession in promotion among those who are graded fit (in terms of prescribed benchmark) by the DPC."

According to the petitioner, while reproducing, in the procedure to be followed by it, as contained in para 6 of its Minutes, the DPC, which met on 26th June, 2015, deliberately omitted to include the above-extracted stipulation, which finds place in the OM, dated 8th February, 2002, even while reproducing other paragraphs of the said OM. Even if this were so, no illegality can be said, thereby, to have been committed by the DPC. If the DPC did not deem it appropriate to include, in its procedure, a stipulation akin to the above-extracted stipulation as contained in the OM, dated 8th February, 2002, of the DOPT, proscribing supersession, from amongst candidates who are graded "fit", no exception can be taken thereto, in view of the autonomy, conferred on the DPC, by Rule 96 (6) of the DSEAR 1973.

36. Interestingly, Sub-paras (c) and (d) of para 6 of the Minutes of the DPC, dated 26th June, 2015, read as under:

> "(c) Bench marks (Rule position) – The DPC shall determine the merit of those being assessed for pro motion with reference to the prescribed benchmark and accordingly great the officers as **'FIT' or 'UNFIT'** only. Only those who are graded FIT (ie who meet the prescribed benchmark) by the DPC shall be included and arranged in the select panel in

order to their inter se seniority in the feeder grade Those officers who are graded **'unfit'.** (in terms of the prescribed benchmark) by the DPC shall not be included in the select panel.

(d) Although among those who meet the prescribed benchmark inter se seniority of the feeder grade shall remain intact, eligibility for promotion will no doubt be subject to fulfillment of all the conditions laid down in the relevant Recruitment/Service Rules, including the conditions that one should be the hold of the relevant feeder post on regular basis and that he/she should have rendered the prescribed eligibility service in the feeder post.

i) The mode of promotion shall be **'selection'**

ii) The benchmark for promotion, as it is now, shall continue to be **'Good'.**"

37. While providing, therefore, that (i) the DPC would evaluate the merit of the officers being assessed with reference to the prescribed benchmark, (ii) the benchmark would be 'Good', (iii) having assessed the officers, with reference to the prescribed benchmark, the DPC would grade the officers 'Fit' or 'Unfit', (iv) officers, who were graded 'Fit', by the DPC, alone would find place in the select panel, and (v) the names of the officers, in the select panel, would be in order of their inter-se seniority in the feeder grade, the procedure, as outlined by the DPC which met on 26th June, 2015, stopped short of stipulating that there would be no supersession amongst those who met the benchmark and were, therefore, graded 'Fit'. Such a stipulation, no doubt, finds place in the OM, dated 8th February, 2002, of the DOPT, as well as in the procedure followed by the DPC, which had met on 11th November, 2013, for promotion to the post of Vice-Principal (wherein Respondent No. 5 was recommended and

selected). There was, however, in the opinion of this Court, no compulsion, on the DPC which met on 26th June, 2015, to follow the procedure which was adopted by any earlier DPC, or DPCs. In view of Rule 96(6) of the DSEAR 1973, the procedure to be followed by it, as well as, in evolving the same, the extent, to which, it chose to adopt the procedure contemplated by the OM, dated 8th February, 2002, of the DOPT, were matters which were entirely within the province of the DPC. The autonomy, statutorily conferred on the DPC, in that regard, by Rule 96(6) of the DSEAR 1973, has necessarily to be respected. If, therefore, the DPC did not choose to include, in the procedure to be followed by it, a stipulation, to the effect that there would be no supersession, amongst officers who were graded 'Fit', no fault can be found therewith, even though such a stipulation was to be found, both in the OM, dated 8th February, 2002, of the DOPT, as well as in the procedure which was followed by the earlier DPC, which had met on 11th November, 2013. To reiterate, each DPC was, by virtue of Rule 96(6) of the DSEAR 1973, free to devise its own procedure, and there was no legal compulsion, on any DPC, to follow the procedure which had been followed by its predecessor.

Allocation of marks by the DPC

38. For the same reason, this Court is unable to countenance the submission, of the petitioner, that, in devising the system of marks, to be adopted by it, or in providing for extra marks for having secured Awards, etc., the DPC erred in law. The Minutes of the DPC, which met on 26th June, 2015, reveal that comparative assessment, of the

candidates, was not to be limited by comparative estimation of the ACRs, but was required to take into consideration, apart from the ACRs, the eligibility for the post, qualification, seniority, recognition/achievements and administrative experience. The tabular statement of comparative assessment of the candidates, as contained in the Minutes of the DPC, reveal that marks were awarded, for each of these criteria, and additional marks were awarded for Awards, three years of completed experience, etc. The manner in which the aforesaid criteria, as contemplated by the DPC procedure, evolved by the DPC, were to be reckoned, and the marks to be awarded for each of the said criteria, were also matters which, by virtue of Rule 96(6) of the DSEAR 1973, fell within the province of the DPC. Though the petitioner has expressed her misgivings regarding the manner in which the marking system was involved, and has sought to contend that the subjective distribution of marks was so tailored as to ensure that Respondent No. 6 scored the maximum marks, this Court is not inclined to countenance the submission. Once it is found that the DPC could, by virtue of Rule 96(6) of the DSEAR 1973, evolve a system of marking, for the various factors to be taken into account while assessing the comparative merit of the candidates, for promotion as Vice-Principal, it is not for this Court to sit in appeal, or even in judicial review, over the manner in which marks were allocated to the various criteria, absent any palpable material evidencing arbitrariness or *mala fides*. This Court is also unable to return a finding, on the facts of the present case, that the manner in which the marks were distributed, amongst the various criteria, was so tailored, as to benefit Respondent No. 6, at the expense of the other competing teachers,

including the petitioner. The petitioner's grievance, on this score, therefore, in the opinion of this Court, has no legal merit.

39. A reading of the manner in which the candidates were evaluated, by the DPC discloses, however, an apparent mistake, where the petitioner was concerned. The marking scheme, as devised by the DPC, indicates that, for qualifications possessed, 3 marks were to be awarded for BA/B.Sc., 4 marks were to be awarded for M.A/M.Sc, 2 marks were to be awarded for B.Ed. and 1 mark was to be awarded for any other qualification. The awarding of these marks is, ostensibly, not shown to be dependent on the "Division" in which the candidate cleared the course/courses. The same tabular statement acknowledges that the qualifications possessed by the petitioner were B.A. (H), M.A. (English) and B.Ed. She ought, therefore, to have been awarded 9 marks, towards the qualifications possessed by her. The statement discloses, however, that she was awarded only 6 marks by the DPC.

40. It is true that the petitioner scored IIIrd Division in her B.A., IInd Division in her M.A. (English) and Ist Division in her B.Ed. this Court, therefore, scanned the Minutes of the meeting of the DPC thoroughly, to examine whether any provision, to eschew, from consideration, a Bachelor's degree qualification with IIIrd Division, or not award it any marks, existed, but has been unable to find any such provision.

41. While it is true that Rule 96(6) of the DSEAR 1973, empowers the DPC to formulate its own procedure, the assessment of the candidates must conform to the said procedure, once it has been

formulated, and reduced to black-and-white. Opacity, in such matters, is unacceptable. No disconnect, between the procedure outlined in the Minutes of the DPC, and the actual application of the procedure to the individual candidates, is at all permissible. On a comparison of the Assessment Sheet, with the DPC Minutes, there seems to be considerable variance in the marks awarded, vis-à-vis the Grading System provided at the foot of the Assessment Table, not only with respect to the petitioner, but also in respect of other candidates. However, as none of the other teachers, who were considered for the post, have chosen to petition this Court, it is not necessary to dwell further on this aspect. Suffice it to state that there is considerable lack of transparency, in the manner in which marks have been awarded to the candidates, especially in the matter of the Qualifications possessed by them.

Plea of bias

42. This Court deems it appropriate to deal, at this stage, with the allegation, of the petitioner, regarding bias, on the part of the members of the DPC, which met on 26th June 2015 and appointed Respondent No. 6 as Vice-Principal.

43. Bias connotes a state of mind, and establishment thereof is, therefore, necessarily an uphill exercise. It is for this reason that the degree of proof, where bias is alleged, is somewhat diluted, with the law requiring, not absolute proof of bias, but a *reasonable apprehension* of a *real likelihood* that bias exists. This, in turn, is

actually a manifestation of the extension, to administrative law, of the principle that justice should not only be done, but should manifestly be seen to have been done. Having said that, the likelihood of bias must be "real", and the apprehension, thereof, "reasonable". It is but human, for one who has been subjected to a grossly arbitrary administrative dispensation, to see shadows behind every pillar. Every such shadow cannot, however, invite judicial cognizance. The law pursues the substance, not the shadow.

44. Bias is, jurisprudentially, elusive and nebulous, in equal measure. Being dependent, as it is, on psychoanalysis of the person, against whom bias is alleged, the El Dorado of absolute proof – to borrow the expression, so felicitously employed by Sarkaria, J., in ***Collector of Customs, Madras v. D. Bhoormall***[2]**–** is unattainable, while examining a plea of bias. It is for this reason that the governing test, in such cases, is the existence of a "reasonable apprehension, of a real likelihood" of bias.

45. Bias may be positive, or negative. In its latter *avatar*, bias incarnates as prejudice. Positive bias denotes a predilection *towards* one party, though it may not, in every case, be accompanied by prejudice against the other. Negative bias denotes cases of clear prejudice, where there is a positive inclination to act *against* the interests of one, or the other, party. Either way, bias is equally fatal. Absolute dispassion, and independence, is the imperative *sine qua*

[2] **(1974) 2 SCC 544**

non, for every legitimate administrative action. Absent such dispassion, the administrative action must, of needs, perish.

46. The following passage, from ***S. Parthasarathi v. State of Andhra Pradesh***[3] is instructive of the above principles:

> "The tests of "real likelihood" and "reasonable suspicion" are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it, whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The Court must look at the impression which other people have. This follows from the principle that justice must not only be done but seen to be done. If right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry; nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The Court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision [see per Lord Denning, H.R. in ***Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon***[4]]."

47. Establishment of the existence of bias is a daunting proposition, as much for the one who seeks to urge bias, as for the one who has to adjudicate on the contention. At times, the existence of bias may legitimately be inferred, keeping in mind the ordinary course of human conduct whereas, at others, though there may be no covert, or overt, indication of bias, the circumstances may be such as, in the absence of any other reasonable explanation, invite an inference of the

[3] **(1974) 3 SCC 459**
[4] **(1968) 3 WLR 694 at 707**

possible existence of bias. The present case provides a textbook example, of these two possible eventualities.

48. The petitioner alleges bias, against Respondent Nos. 3 and 4, on the ground that Respondent No. 3 was the Chairman of the DPCs which met on 11th November, 2013, and 17th November, 2014, and appointed Respondent No. 5 as Vice-Principal and Principal respectively, and Respondent No. 4 had sworn an affidavit, filed before this Court, against the petitioner.

49. It is sought to be contended, by the petitioner that, as the "chair" of the DPCs which met on 11th November, 1973 and 17th November, 1974, which decisions had been called into question, by the petitioner before this Court, Respondent No. 3 as a Chairman of the DPCs would inevitably have been inimically disposed against the petitioner.

50. This Court is unable to agree. It would be stretching incredulity to a breaking point if one were to assume that an administrative authority, whose decision, taken in his official capacity, was questioned in a court, was, merely for that reason, biased – or prejudiced – against the petitioner who had ventilated the challenge.

51. The mere fact that WP (C) 481/2014 and WP (C) 8167/2015, filed by the petitioner, challenged the decision taken by the DPCs chaired by Respondent No. 3, in the opinion of this Court, cannot lead to any legitimate inference that Respondent No. 3 would harbor a bias against the petitioner.

52. Equally, the mere fact that Respondent No. 4 may have been the deponent in the affidavit, filed in the official capacity, representing the School, by way of response to the stand by the petitioner before this Court, too, cannot lead to any justified inference of bias, on the part of the Respondent No. 4, against the petitioner. This contention, of the petitioner, too, therefore, is devoid of merit.

53. In the case of Respondent No. 5, however, this Court finds itself in agreement with the petitioner's reasonable apprehension of a real likelihood of bias, on the part of the said respondent, against her. It merits repetition that actual proof of bias is not required to be forthcoming; what is to be shown to exist is a reasonable apprehension of a real likelihood of bias. Given the fact that the petitioner had competed, with Respondent No. 5, in the matter of consideration for the promotion as Vice-Principal by the DPC which met on 11th November, 2013, and had gone on to challenge, not only the promotion of Respondent No. 5 as Vice-Principal, consequent on the recommendations of the said DPC, but also her subsequent promotion as Principal pursuant to the recommendations of the DPC which convened on 17th November, 2014 (which challenge continues to be pending as on date), and given the ordinary course of human conduct, this Court is of the opinion that a reasonable basis existed, for the petitioner, to apprehend bias, against her, by Respondent No. 5. Most significantly, WP (C) 8167/2015, which challenged the promotion of Respondent No. 5 to the post of Principal of the School, is still pending and was, therefore, also pending in June, 2015 when the DPC

met, for consideration of the petitioner's case for promotion as Vice-Principal.

54. Being engaged in a direct litigative contest, with the petitioner, regarding the challenge, by the petitioner, to her appointment as Principal of the School, it goes without saying that the participation, of Respondent No. 5, in the DPC, which met in June, 2015, and considered the petitioner's case for promotion as Vice-Principal, did invite a reasonable apprehension of bias, on the part of Respondent No. 5, in the mind of the petitioner. Failure, on the part of the petitioner, to secure promotion as Vice-Principal, would definitely have impacted the interests of Respondent No. 5 in WP (C) 8167/2015. The apprehension, harbored by the petitioner, regarding the existence of bias against her, by Respondent No. 5, as a member of the DPC which considered the petitioner's case for promotion as Vice-Principal, was, therefore, not only real, but overwhelming so.

55. This Court hastens to add that, while entering the above observations, no aspersion is intended to be cast, either on the integrity or on the impartiality of Respondent No. 5, while functioning as a member of the DPC which met on 26th June, 2015. A plea of bias is, however, a strange animal, and, in estimating whether the plea is live, the Court is concerned, not so much with whether justice was done, or not, as with whether justice was seen to have been done, or not. Even if there was every possibility of the person, against whom bias is alleged, having been actually unbiased, and of the decision, in which the person participated or contributed, having been taken without any

element of bias whatsoever, that decision would, nevertheless, be imperilled, if the Court is of the opinion that the person, affected by the decision, could have entertained a reasonable apprehension of the existence of bias. Whether bias existed, or not, is, therefore, not the issue; what has to be seen is whether a reasonable apprehension of the existence of bias, would, or could not, be said to exist. The aforesaid observations are intended, therefore, only to point out that, in view of the fact that Respondent No. 5 was engaged in a litigative battle with the petitioner, in which the petitioner had chosen to challenge the promotion, of Respondent No. 5 as Vice-Principal and as Principal, with the latter litigation continuing to remain pending as on date, the petitioners apprehension that, in assessing her for appointment as Vice-Principal, Respondent No. 5 would not be entirely unbiased, was reasonable.

56. In response to the submission of the petitioner, the School has sought to invoke the doctrine of necessity, referring, in this context, to Rule 96(3)(b) of the DSEAR 1973, which reads thus:

> "**96. Recruitment.–**
>
> (1) *****
>
> (2) *****
>
> (3) The Selection Committee shall consist of:
>
> *****
>
> (b) in the case of an appointment of a teacher (other than the head of the school):

> (i) the Chairman of the managing committee or a member of the managing committee nominated by the Chairman;
>
> (ii) *the head of the school*;
>
> (iii) in the case of a primary school, a female educationist having experience of school education;
>
> (iv) in the case of an aided school, one educationist to be nominated by the Director, and one representative of the Director;
>
> (v) in the case of appointment of a teacher for any class in the middle stage or any class in the higher secondary stage, an expert on the subject in relation to which the teacher is proposed to be appointed, to be nominated, in the case of an unaided school by the managing committee, or in the case of an aided school, by the Director."

57. Inasmuch as Rule 96(3)(b) of the DSEAR, 1973, requires the head of the school to be a member of the DPC, considering appointment of teachers (other than the head of the school), no fault can, possibly, be found with the School, in co-opting Respondent No. 5 as a member of the DPC, or with Respondent No. 5 herself, in participating in the DPC, as a member thereof.

58. Does this, however, mean that Respondent No. 5, despite being locked in a litigative battle with the petitioner, regarding the legitimacy of her appointment as Vice-Principal and Principal, ought to be permitted to be a member of the DPC, in which the petitioner's promotion, to the post of Vice-Principal, was under consideration?

There can be no dispute about the fact that there was a real and perceptible likelihood of bias, on the part of Respondent No. 5, against the petitioner, or, at the least, that the petitioner's apprehension, regarding the existence of such bias, was eminently reasonable. In such a situation, does the doctrine of necessity handicap the Court from directing the exclusion, of Respondent No. 5, from the DPC which was considering her case for promotion as Vice-principal?

59. The contours of the doctrine of necessity stand tellingly underscored, in the following passage from ***Election Commission of India v. Dr. Subramaniam Swamy***[5], on which the Constitution Bench of the Supreme Court has, in its recent decision in ***Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal***[6], placed reliance:

> "99. We must have a clear conception of the doctrine. It is well settled that the law permits certain things to be done as a matter of necessity which it would otherwise not countenance on the touchstone of judicial propriety. Stated differently, the doctrine of necessity makes it imperative for the authority to decide and considerations of judicial propriety must yield. It is often invoked in cases of bias *where there is no other authority or Judge to decide the issue*. If the doctrine of necessity is not allowed full play *in certain unavoidable situations*, it would impede the course of justice itself and the defaulting party would benefit there from. Take the case of a certain taxing statute which taxes certain perquisites allowed to Judges. *If the validity of such a provision is challenged who but the members of the judiciary must decide it. If all the Judges are disqualified on the plea that striking down of such a legislation would benefit them, a stalemate situation may develop. In such cases the doctrine of necessity comes into play. If the choice is between allowing a biased person to act or to stifle the action altogether, the choice must fall in favour*

[5] **(1996) 4 SCC 104**
[6] **2019 SCC OnLine SC 1459**

> *of the former as it is the only way to promote decision-making.* In the present case also if the two Election Commissioners are able to reach a unanimous decision, there is no need for the Chief Election Commissioner to participate, if not the doctrine of necessity may have to be invoked."
>
> (Italics and underscoring supplied)

60. This Court appreciates the submission, advanced on behalf of the School, that the participation, of Respondent No. 5, as a member of the DPC which met on 26th June, 2015, was mandated by Rule 96(3)(b) of the DSEAR, 1973. Clearly, the School cannot be really faulted in constituting the DPC, including, therein, Respondent No. 5. Equally, Respondent No. 5 cannot be faulted in having participated in the said DPC, as any refusal, on her part, to do so, would clearly infract Rule 96(3)(b) of the DSEAR, 1973.

61. Having said that, this Court is of the opinion that it is not powerless, while exercising its jurisdiction under Article 226 of the Constitution of India, to direct the constitution of a DPC which would not include Respondent No. 5. With the gradual but definite bridging, over a period of time, of the earlier existing chasm between administrative, and quasi-judicial, actions, the salutary principle that justice must not only be done, but must be seen to have been done, applies, with the same vigour, on this day and age, to acts done in the administrative or executive, as compared to the judicial, sphere. It is worth observing, in this context, that Sub-rule (8) of Rule 96, DSEAR, 1973, empowers the Managing Committee to nominate a new member, in place of any member, of the Selection Committee, who is "related" to the candidates seeking recruitment. No doubt, as

understood etymologically and in common parlance, Respondent No. 5 may not be "related" to the petitioner. The *raison d' etre* behind Sub-rule (8) of Rule 96 is, however, unquestionably the avoidance of the remotest possibility of an allegation of bias and, keeping the said *raison d' etre* in mind, in the opinion of this Court, a direction, to the respondents, to constitute a DPC which does not include Respondent No. 5, may not really transgress the limits of the jurisdiction of this Court, vested by Article 226 of the Constitution of India.

Delay in convening of the DPC

62. It is also sought to be contended, by the petitioner, that convening of the DPC, after calling for applications from the eligible teachers in December, 2014, was deliberately delayed so as to include, in the reckoning, the 2014-2015 her ACRs and exclude the 2009-2010 ACR's, in which the petitioner had been graded "Outstanding". To this, the counter-affidavit, filed by Respondents No. 1 to 3, merely proffers a bald denial, averring that the delay in convening of the DPC was owing to administrative reasons. The onus, to establish that the delay was deliberate, was unquestionably on the petitioner and, in the absence of any positive material, whether direct or circumstantial, indicating that the delay was deliberate, this Court is hesitant to return any such finding. In the written submissions filed by them, Respondents No. 1 to 3 have sought to further explain the convening of the DPC on 26th June, 2015, by pointing out that WP (C) 481/2014, in which the petitioner had challenged the appointment of Respondent No. 5 as Vice-Principal, was pending, and was dismissed only on

8th April, 2015, whereafter the DPC was convened on 26th June, 2015. It may be arguable, as to whether such a factual averment, which does not find place in the pleadings, could be allowed to be ventilated in written submissions; suffice it, however, to state that this Court is not convinced that the material on record is sufficient to return a finding, against the School, of *mala fides*, or deliberate delay in the convening of the DPC.

63. The petitioner's submission that the convening of the DPC was delayed, with the deliberate intention of facilitating the promotion of Respondent No. 6 is, therefore, rejected.

Tampering of 2013-2014 ACR of petitioner

64. The petitioner has also alleged that her ACRs, for the year 2013-2014, were tampered. This judgment sets out, earlier in its course, the various factors, highlighted by the petitioner in order to establish this allegation, and this Court finds considerable substance in the petitioner's grievance. It is seen that though, undisputedly, the ACR consisted of 11 pages, with two Annexures thereto, consisting of two pages each, the copy of the 2013-2014 ACR, as provided to the petitioner, contains only 10 pages, with no Annexures. The ACR contains detailed remarks, and signatures by the reporting officer, the reviewing officer and the senior reviewing officer, and there is no explanation for the non-reporting, by any of these officers, to the petitioner or to any other authority, of the fact that her ACR consisted only of 10 pages, instead of 15, and did not have, with it, Annexures

A and B, especially as there is specific reference in the ACRs, of Annexures A and B thereto. Equally, there is no explanation for why pages 9 and 10 of the ACR do not reflect any signature, of the petitioner, at the head thereof, though she has signed the head of pages 1 to 8. An astonishing contention has been advanced, in the written submissions filed by the respondents – which finds no place in the pleadings – that the petitioner was *in the habit* of not signing the last three pages of her ACR. It is unbelievable that any officer would do so; it is equally unbelievable that, if the petitioner was habitually refusing to sign all the pages of her ACR, she would not have been taken to task therefor. No earlier ACR of the petitioner, in which her signature does not figure at the head of every page, has been placed on record by the respondents. This allegation, as it figures in the written submissions filed by the respondents has, therefore, necessarily to be characterised as a wild afterthought, made essentially *in terrorem*.

65. Page No. 10 of the 2013-2014 ACR, as provided to the petitioner and has placed, by her, on record, indicates a remark, by the Senior Reviewing Officer (Respondent No. 7), that the original ACR had been lost/misplaced. Suddenly, and with no explanation, the ACR resurfaced, as it were out of the blue, but with "re-entered" pages 9 and 10. Save and except for the remark entered by Respondent No. 7, as Senior Reviewing Officer, there is not one iota of evidence, to indicate that the petitioner's ACR had actually been lost/misplaced. Neither is there any averment, on the part of the respondents, regarding fixing of responsibility on the person who lost/misplaced the ACRs. Even if it were to be assumed that the ACR had been

lost/misplaced, there is no explanation as to how Respondent No. 7, who had left the service of the School eight to nine months before he entered his remarks on page 10 of the ACR, remembered that the petitioner had been graded "Good", by the Principal in June/July 2014. This statement is, moreover, inaccurate, as the overall grading, ultimately granted to the petitioner in the earlier ACRs (except for the 2011-2012 ACR) was either "Very Good" or "Outstanding". Further, Respondent No. 7, as Senior Reviewing Officer has, in a manner which entirely defies comprehension, opined that, though the Principal had graded the petitioner "very good", *"due to the non-availability of the previous AR", the 2013-2014 ACR was "being auctioned again with overall grading 'Good'."* This Court is unaware of any law, or the legal principle, which permits this. There is no justification for the decision of Respondent No. 7, as Senior Reviewing Officer, to downgrade the grading, granted to the petitioner by her Reporting Officer and Reviewing Officer, merely because her ACR was not available. Apparently, the law, as understood by Respondent No. 7, permitted downgrading of the overall grading granted to the petitioner, both by the Reporting Officer as well as by the Reviewing Officer, merely because the School had lost, or misplaced, the ACR. This Court is constrained to observe that, with such a skewed understanding of the law, Respondent No. 7 was entirely incompetent to act as Senior Reviewing Officer.

66. In fact, the remarks of the Reporting, Reviewing and Senior Reviewing Officers, as contained on the "substituted" pages 9 and 10,

make for interesting reading. The Reporting Officer has graded the petitioner as "outstanding" in each of the following criteria:

(i) planning and preparation for teaching,

(ii) effectiveness of language and communication/ communication skills,

(iii) class-room teaching and use of A.V. aids,

(iv) effectiveness of teaching/ability to make teaching interesting,

(v) capacity to motivate the students,

(vi) class control and discipline,

(vii) setting of questions and marking of assignments and tests,

(viii) help to the gifted and slow learners,

(ix) organisation of co-curricular activities and games,

(x) assistance and organisation of school and house functions,

(xi) maintenance of records, registers and diaries etc.,

(xii) sense of commitment to the profession,

(xiii) initiative, resourcefulness,

(xiv) punctuality and promptitude, amenability to discipline,

(xv) personal bearing, dignity and maturity,

(xvi) self confidence, command and leadership,

(xvii) team-work; and co-operation with colleagues,

(xviii) relations and interactions with the Principal,

(xix) relations with student and parents,

(xx) honesty and integrity,

(xxi) general awareness,

(xxii) knowledge of computer and its applications in the classroom teaching, and

(xxiii) maintenance of teacher diary.

Proceeding further, the Reviewing Officer has entered the following remarks:

> "Yes I agree with the remarks of reporting Officer. She shows adequate foresight and vision. Makes effective use of resources. Accomplishes desired results without supervision. Has adequate moral courage to stand up for what is right, can stand for her convictions. Quick and neat presentation of work."

The Reporting, as well as the Reviewing Officers, have graded the petitioner "Very Good".

67. The Senior Reviewing Officer proceeds, however, to enter the following remarks:

> "Mrs K. Mehdiratta's AR was assessed as 'Good' by the then Principal in June/July 2014. However now the overall grading by RO in December 2014 is 'Very Good'. *Due to the non availability of the previous AR (Lost/Misplaced)* the AR is being Actioned again with overall grading 'Good' by SRO."
>
> (Emphasis supplied)

68. The petitioner's apprehension, that her 2013-2014 ACR was deliberately tampered with and, on the pretext that it had been lost/misplaced, pages 9 and 10 thereof were replaced, downgrading her to 'Good', cannot, therefore, be said to be without substance.

69. The petitioner has also contended that, on 26th June, 2015, when the DPC convened, to consider her case for promotion as Vice-Principal, the ACR, for the 2013-2014 year, had not been communicated to her and that it was only subsequently, on 17th August, 2016, that the said ACR was communicated, on directions, to the said effect, having been issued, by this Court, in CM 24271/2016, filed by the petitioner in WP (C) 8167/2015. Barring a bald denial, Respondents No. 1 to 3 have not traversed this submission. The petitioner has enclosed, with the writ petition, the communication, dated 17th August, 2016, whereby the ACR, for 2013-2014, was communicated to her. The said letter does not aver, at any point, that the said ACR had been communicated to her earlier. Nor have Respondents No. 1 to 3 placed, on record, any document, indicating communication, to the petitioner, of her ACR, for the year 2013-2014, at any point of time earlier than 17th August, 2016. The submission, of

the petitioner, that the said ACR – in which she had been downgraded, by the Senior Reviewing Officer to "Good", which was below the grading awarded to her for the earlier year, as well as below the grading awarded, in 2013-2014, by the Reporting and Reviewing Officers – had been communicated, to her, only on 17th August, 2016, therefore, commends acceptance. It is trite that a communicated ACR cannot be taken into account by a DPC, to the prejudice of the concerned officer[7]. For this reason, too, therefore, this Court is convinced that the 2013-2014 ACR of the petitioner, could not have been taken into consideration by the DPC, which convened on 26th June, 2015.

70. The procedure for the consideration of ACRs, as outlined in the Minutes of the DPC, which convened on 26th June, 2015, indicate that the ACRs of five preceding years were required to be taken into consideration. Inasmuch as, in the opinion of this Court, the 2013-2014 ACR of the petitioner, was required to be eschewed from consideration, the five ACRs, which would have to be considered, in the case of the petitioner, would be her ACRs for the years 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2014-2015.

71. Mr. Arvind Nayar, learned Senior Counsel appearing on behalf of the School, had endeavoured to submit that, even if the petitioner was to be awarded the maximum possible marks, for assessment of ACRs, she would, nevertheless, fall short of the marks awarded to Respondent No. 6, as the petitioner had been awarded 12 marks for

[7] **Sukhdev Singh v. Union of India (2013) 9 SCC 566; Anil Kumar v. Union of India (2019) 4 SCC 276**

assessment of ACRs, as against 13 marks awarded to Respondent No. 6, and the total marks awarded to the petitioner, and Respondent No. 6, were 33 and 37 respectively. As such, Mr. Nayar submits that, even if the petitioner were to score 15, instead of 12, marks for her ACR assessments, the total marks scored by her would, nevertheless, rise only to 36, which would still fall short of 37 marks, scored by Respondent No. 6.

72. This argument, in the opinion of this Court, cannot impress, especially as the manner in which marks have been awarded to the candidates, especially with respect to the Qualifications possessed by them, is not in sync with the grading/marking system provided at the foot of the tabular statement of comparative assessment of the candidates. The entire exercise appears to be shrouded in obscurity, and cannot be said to successfully withstand judicial scrutiny.

Conclusion

73. This writ petition is, accordingly, allowed in the following terms:

(i) The promotion of Respondent No. 6 as Vice-Principal of the School, consequent to the recommendations of the DPC which met on 26th June, 2015, is quashed and set aside. In the interests of administration of the School, and the students studying therein, however, Respondent No. 6 is permitted to continue to function as Vice-Principal, pending and subject to

the outcome of the compliance, by the School, with the directions issued hereinafter.

(ii) The petitioner is entitled to a re-consideration of her case, for promotion as Vice-Principal, by way of a review DPC, which would operate and function on the same basis as the DPC which met on 26th June, 2015, *sans* the involvement, therein, of Respondent No. 5. Invoking, by analogy, Sub-rule (8) of Rule 96 of the DSEAR, 1973, the Managing Committee of the School is directed to nominate a third Member of the DPC, in place of Respondent No. 5. It would be open to the Managing Committee to select the third Member from within itself.

(iii) The review DPC would consider the cases only of the petitioner and Respondent No. 6. The petitioner's ACR for the year 2013-2014 would be eschewed from consideration. In other words, the review DPC would consider the ACRs of the petitioner for the years 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2014-2015, and the ACRs of Respondent No. 6 for the years 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015.

(iv) The procedure and rules for the conducting of the DPC, as set out in para 6 of the Minutes of the Meeting dated 26th June, 2015, would continue to apply to the review DPC. The review DPC would also follow the system of awarding marks, as is indicated at the foot of the Comparative Statement of Assessment of the candidates, forming part of the Minutes of

the DPC which met on 26th June, 2015. In other words, the methodology adopted by the original DPC would continue to be followed by the review DPC, so as to obviate any further allegation of manipulation of procedure.

(v) The DPC would meet and, on the basis of assessment of the records of the candidates, re-consider the comparative merits of the petitioner and Respondent No. 6, for the purpose of promotion as Vice-Principal. The decision of the DPC would be arrived at, within a period of four weeks from the date of receipt, by the School, of a certified copy of this judgment. It is reiterated that, pending the decision of the review DPC, Respondent No. 6 would, therefore, continue to function as Vice-Principal of the School. This, however, would be subject to the outcome of the review DPC proceedings.

74. There shall be no orders as to costs.

C. HARI SHANKAR, J.

DECEMBER 2, 2019
*dsn/*HJ