

\$~24

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: 31<sup>st</sup> January, 2023*

+ **W.P.(C) 6486/2021**

PIYUSH MITTAL

..... Petitioner

Through: Mr. Sandeep, Advocate.

versus

NORTH DELHI MUNICIPAL  
CORPORATION

..... Respondent

Through: Mr. Manu Chaturvedi, SC for MCD.  
Mr. Sunil Kapoor, Advocate for R-2.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Mr. Piyush Mittal against the Respondent No.1 - North Delhi Municipal Corporation (NDMC) and his wife i.e., Respondent No. 2 - Ms. Shilpi Mittal seeking a vigilance enquiry against the Respondent No. 2.
3. The present is a classic case wherein a matrimonial dispute between a couple has resulted in a completely tangential proceeding being pursued by the Petitioner/husband to jeopardise and cause damage to his wife's employment.
4. The case of the Petitioner is that the Respondent No. 2 and the Petitioner married on 5th May, 2013. At that time Respondent No. 2 was working with the Respondent No.1 as a primary teacher on contract basis. She became a permanent employee in September, 2015. According to the Petitioner, she was able to get this job due to her uncle who was working as Principal in Adarsh Nagar, MCD School in the evening shift. In 2016,

Respondent No. 2 left the matrimonial home and disputes ensued between the parties.

5. According to the Petitioner, Respondent No.2 had attended various Court proceedings before the Rohini District Courts, the High Court, before other authorities such as CAW Cell, DHC Mediation Cell, etc. The Petitioner, has obtained the order sheets of these proceedings which would show that Respondent No.2 had remained absent from school on several dates only to attend the proceedings before the various authorities. It is his case that he has also obtained the CDR and location chart of the mobile numbers of the Respondent No.2 and her Uncle by moving an application before the Metropolitan Magistrate's Court, Rohini. The said CDR and location chart shows presence of Respondent No.2 and her Uncle in the Courts during the working hours of the Respondent No. 2's school.

6. As per the Petitioner, in view of the fact that Respondent No. 2 has been absenting herself from school and continues to receive salary he filed written complaints dated 26<sup>th</sup> August 2019 and 2<sup>nd</sup> September 2019, to the Respondent No.1 pursuant to which a show-cause notice was issued to the Respondent No. 2 on 9<sup>th</sup> September, 2019. The said complaint continued to remain pending and was sent to the legal department of Respondent No.1.

7. The matter had to be referred to the vigilance department for enquiry, however, such an enquiry was not initiated, hence the present petition has been filed seeking directions against the Respondent No.1 to commence a vigilance enquiry against Respondent No.2. The reliefs prayed for are as under:

*“(A) To issue the directions to the Respondent to immediately set up a vigilance inquiry by appointing the*

*inquiry officer not below the rank of Deputy Commissioner (Vigilance) or any other independent inquiry authorities on the complaint dated 26.08.2019 & 02.09.2019 submitted by the Petitioner to the Respondent, with a further direction to conclude the inquiry in a time-bound manner;*

*(B) To direct the Respondent to allow the petitioner to join the inquiry proceedings, if any, initiated by the respondent on the directions of this Hon'ble Court to facilitate the inquiry and to prove the truth through evidences by summoning the record the relevant record as per Sec-5 of Departmental Inquiries (Enforcement of Attendance of Witness and Production of Documents) Act, 1972.*

*(C) To issue the directions to the Respondent to take appropriate legal action in a time bound manner including lodging of the FIR, if after inquiry, the erring officials found guilty;*

*(D) Any other or further order(s) which this Hon'ble Court deem fit, just and proper under the facts and circumstances of the case, may also be passed in favour of the Petitioner and against the Respondent, in the interest of justice."*

8. Notice was issued in this petition on 14<sup>th</sup> July, 2021.
9. The Respondent No.2 who was initially not impleaded was, thereafter, impleaded by the Petitioner. The counter affidavit has also been filed by the Respondent No.1 in the meantime.
10. As per the counter affidavit of the Respondent No.1, upon legal advice given by the concerned DLO Vigilance, the Respondent No.1 was advised to conduct investigation at the department level, accordingly a department level investigation was conducted and vide action taken report dated 18<sup>th</sup> January, 2023 it was found that the Respondent No.2 was not guilty or a defaulter. Thus, ld. Counsel for the Respondent No.1 submits that the present writ petition ought to be therefore disposed of.

11. Ld. counsel for the Petitioner in the rejoinder submits that the said action taken report itself shows that the Respondent No. 2 has been taking leave for attending Court proceedings, thus, an independent vigilance enquiry ought to be conducted against her conduct.

12. As per the Respondent No. 2, who is present in person, she is working as a primary school teacher at the MCD school in Swaroop Nagar-II, Delhi-110042. She is a teacher in the second shift which commences at 12:45 pm and goes on till 6:15 pm in summer and till 5:45 pm in the winters.

13. This Court has heard the Id. Counsels for the parties as also Respondent No.2 who is present in person before the Court.

14. The Respondent No.1 has, after obtaining the opinion of the concerned legal officer, initiated a departmental enquiry into the complaint filed by the Petitioner/husband. The action taken report dated 18<sup>th</sup> January, 2023 has been placed on record. The same reads as under:

*“With reference to the above cited subject, it is submitted that as per requirement of this case followed by advice of Vigilance Department, MCD an investigation was to be conducted at the departmental level itself and the findings were to be drawn accordingly. The investigation has been conducted by an internal committee of department comprising three members, since vigilance department had commented that there was no Vigilance angle at all in this case being administrative nature of allegations in this matter.*

*A three members Committee constituted by Education Department CLZ inquired thoroughly regarding the issue. The matter is related to the presence of Smt. Shilpi Mittal, Teacher MCPS Swaroop Nagar -II simultaneously at two places, at MCPS Swaroop Nagar-II and at Hon'ble Court (High Court of Delhi) on mentioned dates asked by Sh. Piyush Mittal Husband of*

*Smt. Shilpi Mittal.*

*As per report of the inquire Committee of department furnished on 18.01.2023 the findings of investigation are as under-*

- 1. Smt. Shilpi Mittal, Teacher MCPS Swaroop Nagar-II has not found defaulter/guilty in any way.*
- 2. On mentioned dates in question, She either remained present in the school during duty hours or proceeded on leave with due permission of authority.*
- 3. Shilpi Mittal did not Commit the offence of being absent from duty as per school record and as on the basis of statement/supporting evidence submitted by Teachers and Principal (staff of MCPS Swaroop Nagar - II)*
- 4. The allegations labelled upon Smt. Shilpi Mittal by Sh. Piyush Mittal for presence at 02 places at the same time stand "not proved".*

*Therefore it is a conclusive view of committee that the matter may be disposed off for further course of action.*

*As desired by Hon'ble Court on 26.07.2022 during the hearing of present case the report of Edn Department CLZ, MCD is hereby submitted for kind consideration in this matter please."*

15. A perusal of the above report shows that the internal committee comprising three members had come to the conclusion that there is no vigilance angle involved in the present case and, thus, the enquiry committee of the department after recording statements of all the concerned staff members including the Principal arrived at a conclusion that the Respondent No.2 is not guilty in any manner.

16. It is clear from the facts of the case that a matrimonial dispute has been converted into a clear case of vengeance being sought by the Petitioner/husband against his wife/Respondent No.2 in an attempt to jeopardize her employment in some manner or other. The trend of

matrimonial disputes being converted to multiple proceedings out of sheer vengeance ought to be curbed by Courts. The Court cannot encourage such conduct on behalf of the Petitioner/husband.

17. At this stage, Id. Counsel for the Petitioner submits that the basis of the action taken report i.e., the statement of the staff members, principal and other documents have been sought by the Petitioner under the RTI. He submits that if the same reveals any material against the Respondent No.2, he be permitted to approach the Respondent No.1. In the facts and circumstances of this case, this Court is not inclined to give such liberty to the Petitioner as the same would unnecessarily continue to constitute harassment to the Respondent No.2 who is a teacher in a primary school.

18. Under these circumstances, this Court is of the opinion that the prayer for vigilance enquiry made in this writ petition is not tenable. The action taken report is taken on record. No further action is called for on the Petitioner's complaint.

19. It is made clear that the observations in this writ petition shall not be construed against the Petitioner in any manner in the pending criminal cases which the Respondent No.2 has instituted against the Petitioner or in the divorce or other proceedings which are pending between the Petitioner and the Respondent No.2.

20. With these observations, the present petition, along with all pending applications, is disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**JANUARY 31, 2023/dj/kt**