STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

WOONSOCKET SCHOOL COMMITTEE vs. CITY OF WOONSOCKET	INTERIM ORDER

Held: School Committee's request for interim order requiring City to immediately fund budget deficit is denied; School Committee's request for interim order requiring City to remove encumbrance on School Committee funds is granted; interim order is entered requiring City to remove any and all encumbrances on appropriated School Committee funds and to pay School Committee bills to the extent appropriated funds exist in School Committee accounts.

June 7, 1993

Background

This matter concerns a request by the Woonsocket School Committee for an interim order pursuant to R.I.G.L. 16-39-3.2 directing the City of Woonsocket to (1) immediately appropriate the sum of $578,356 for city schools and (2) remove the City's encumbrance of all Woonsocket Education Department funds for the 1992-1993 fiscal year. (Appellant's Exhibit 1). The request for an interim order was filed subsequent to the Commissioner's May 4, 1993 decision involving these parties which ordered the City of Woonsocket to appropriate the additional sum of $641,303, minus any school-roof insurance payments, for city schools for the 1992-1993 fiscal year.

An interim order hearing was held on May 28, 1993.

The evidence presented at the hearing shows that, as of March 31, 1993, the City of Woonsocket placed an encumbrance in the amount of $10,002,314 on the Education Department's account to cover the Department's remaining payroll, fringe benefits and fixed expenses chargeable in the 1992-1993 fiscal year. (Appellant's Exhibit 4).[1] This encumbrance left the School Committee with $196,640 in unexpended available appropriations. As Mr. John P. Kuzmiski, Director of Finance and Administration for the City, stated in his April 12, 1993 letter to the Education Department:

> Please be advised that the Finance Department will continue to process all vouchers received from the Education Department charging the General Fund up to $196,640, the amount of unexpended appropriations currently available. As a practical matter, once

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1 As was noted in the May 4, 1993 decision, the City previously placed an encumbrance on $3 million of the School Committee's appropriation for this purpose.

> the Education Department's total available appropriations have been expended, vouchers will no longer be processed and all payments will effectively cease. (Appellant's Exhibit 4).

On May 19, 1993, Mr. Kuzmiski notified Dr. Josephine Kelleher, superintendent of schools, that

> the Education Department has now fully expended and committed the entire amount of its annual appropriations of $30,093,659 for the current fiscal year. Accordingly, effective today, I have instructed the City Controller to immediately cease processing any and all direct payment vouchers submitted by the Education Department to this office. Because the Finance Department has previously encumbered the required amounts to meet on-going payroll, and payroll related fringe benefits expense charges, payments will continue to be made in order to satisfy these regular weekly obligations for the balance of the current year ending June 30, 1993. (Appellant's Exhibit 6).

Because the City is no longer processing Education Department vouchers, bills incurred by the Education Department outside of payroll, fringe benefits and fixed expenses are not being paid despite the fact that the School Committee has not yet spent all of the $30,093,659 that had been appropriated by the City for the 1992-1993 school year. Among the unpaid bills are special education tuitions, electric, telephone, transportation, educational supplies, and building and equipment maintenance and repair.

The School Committee's projected budget deficit for 1992-1993 now stands at $578,356.

As of the date of the hearing, the Commissioner's May 4, 1993 decision had not been appealed to the Board of Regents.

Positions of the Parties

The School Committee points to the current absence of operating funds and argues that interim order relief must be provided to all students in Woonsocket who are being denied the

advantages of a public education by the City's manipulation of the fiscal process. It contends that the City's legal obligation to fund the School Committee's budget is well established, that the Commissioner's previous decision determined that the School Committee's budget is attributable to contractual obligations and mandated programs and services, and that only the School Committee can control the spending of funds that have been appropriated to it. The School Committee requests that the City be ordered to immediately fund the Education Department deficit and to release the encumbrance on School Committee funds.

The City of Woonsocket disputes the applicability of R.I.G.L. 16-39-3.2 to this proceeding, contending that the statute provides for the issuance of interim orders only to protect the rights of individual children.[2] The City argues that there is no hearing pending in this matter as contemplated by the statute, and that an interim order hearing cannot be used to deprive a party of its statutory right to appeal a decision of the Commissioner to the Board of Regents.[3] The City also contends that the funding-

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2 R.I.G.L. 16-39-3.2 provides in pertinent part that

> In all cases concerning children, other than cases arising solely under R.I.G.L. 16-2-17, the commissioner of elementary and secondary education shall also have power to issue such interim orders pending a hearing as may be needed to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter.

R.I.G.L. 16-39-3.2 also sets forth time requirements for hearings and decisions on interim orders, which are enforceable in superior court.

3 Under R.I.G.L. 16-39-3.1, a party has 30 days to appeal a decision of the Commissioner to the Board of Regents. In the absence of a timely appeal, the Commissioner's decision "shall become final." A final decision of the Commissioner which is not subject to further judicial or administrative review is "enforceable by mandamus or any other suitable civil action in the superior court for Providence County at the request of any interested party."

encumbrance issue was never properly raised in this proceeding.

Discussion

This matter is before us on the School Committee's request for an interim order pursuant to R.I.G.L. 16-39-3.2. At the hearing on the interim order the School Committee presented evidence updating the amount of the projected budget deficit for the 1992-1993 school year and establishing the $10,002,314 encumbrance on School Committee funds. The School Committee contends, in essence, that the deficit and the encumbrance are preventing the Education Department from providing the children of Woonsocket with an education in accordance with the basic education program mandated by R.I.G.L. 16-7-24.

We find that a claim of this nature is properly the subject of an interim order request pursuant to R.I.G.L. 16-39-3.2. The School Committee is seeking to ensure that all children in Woonsocket receive the type of education that is required by law and regulation. Its request clearly presents a "case concerning children" as that term is used in the statute. While the City correctly asserts that there is no hearing pending in any other forum, we find that the statute does not require the existence of a hearing in another forum before the Commissioner may issue an interim order. In our view, R.I.G.L. 16-39-3.2 authorizes the Commissioner to conduct an interim order hearing and issue an interim order pending a full hearing and decision on the merits of an appeal filed pursuant to R.I.G.L. 16-39-1 and/or 16-39-2. The School Committee's request therefore is in the nature of an appeal to the Commissioner under R.I.G.L. 16-39-1 and/or 16-39-2

with an attendant request that an interim order be issued pursuant to R.I.G.L. 16-39-3.2 pending a hearing on the appeal.

As we mentioned previously, the School Committee addressed the unfunded budget deficit and the $10,002,314 encumbrance at the interim order hearing. The budget deficit was the subject of the School Committee's previous appeal which resulted in the Commissioner's May 4, 1993 decision. That decision had neither been appealed nor become final as of the date of the hearing.[4] R.I.G.L. 16-39-3 provides that "any decision of the commissioner in these matters shall be subject to an appeal to and review by" the Board of Regents. Given the City's present right to appeal the Commissioner's May 4, 1993 decision regarding the 1992-1993 budget deficit to the Board of Regents for review by that body, we find that it would be inappropriate to issue an interim order directing the City to fund the deficit. An interim order to that effect would effectively nullify the City's right to appeal the Commissioner's decision and be in direct contravention of R.I.G.L. 16-39-3. As a result, we deny the deficit-funding portion of the School Committee's request for an interim order.

The City's prior encumbrance of School Committee funds was referred to in the Commissioner's May 4, 1993 decision. At that time the encumbrance was in the amount of $3 million and it did not immediately threaten the Education Department's ability to meetits operating expenses. The May 4, 1993 decision, which was rendered in response to the School Committee's request that the

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4 On June 3, 1993 we received notice that the City has appealed the Commissioner's May 4, 1993 decision to the Board of Regents The fact that the City has exercised its right of appeal does not alter our analysis of this aspect of the School Committee's interim order request.

Commissioner determine the sufficiency of the amount of the Education Department's 1992-1993 fiscal appropriation, did not address the propriety of the City's encumbrance of funds.

The propriety of the City's $10,002,314 encumbrance of appropriated Education Department funds has directly been placed in issue by the School Committee's request herein. As set forth earlier, the amount and timing of the encumbrance, and the City's refusal to process Education Department vouchers upon the exhaustion of unencumbered funds, has prevented the Education Department from meeting many of the expenses it incurs in educating the children of Woonsocket. To the extent the City has encumbered funds appropriated to the School Committee and refused to process Education Department payment vouchers while appropriated funds remain unexpended, we find that it has acted improperly.

In so finding, we rely on the case of Dawson v. Clark, 93 R.I. 457, 176 A.2d 732 (1962), in which a Pawtucket taxpayer who unsuccessfully bid on an insurance contract with the school committee sought to enjoin the city treasurer from making payment on the contract. The plaintiff claimed to be the low bidder on the contract. The question presented to the Rhode Island Supreme Court was whether the school committee was bound by the provisions of the Pawtucket home rule charter which required the city to purchase goods and services from the lowest responsible bidder.

In response to that question, the Court stated as follows:

> Assuming without deciding that the provisions of the charter are as plenary and mandatory as is contended by complainant, those provisions are not binding on the school committee in carrying out the duties which have been delegated to them by the general assembly. Gray v. Wood, 75 R.I. 123; City

> of Pawtucket v. Pawtucket Teachrs' Alliance, 87 R.I. 364. It is equally well settled that once an appropriation is made by a city council or town meeting for use of the school committee, the expenditure of those funds so appropriated is within the committee's sole and exclusive jurisdiction. Times Publishing Co. v. White, 23 R.I. 334, and Bailey v. Duffy, 45 R.I. 304. 93 R.I. at 460.

The Court in Dawson further examined the provisions of the act which validated the home rule charter and found no indication that "the legislature authorized the surrendering of school committee prerogatives to the central purchasing board or any other agency established by the charter." Ibid. at 461. The Court also failed to find any legislative authority which would render R.I.G.L. 16-2-18 inapplicable to the city of Pawtucket. R.I.G.L. 16-2-18 provided then, as it does now, that "the entire care, control and management of all the public school interests of the several towns, shall be vested in the school committee of the several towns, and they shall also draw all orders for the payment of their expenses."[5]

We therefore find that the City acted without authority in placing the $10,002,314 encumbrance on appropriated School

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5 The current version of R.I.G.L. 16-2-18 continues as follows:
> provided, however, that these expenses shall not in any fiscal year exceed the total of all revenue appropriated by the state or town or otherwise for the public schools under the care, control, and management of the school committee. If, in any fiscal year a school committee is notified that estimated expenses may exceed total available appropriations, the school committee shall adopt and implement a plan to maintain a balanced school budget, which plan shall provide for continuous regular public school operations consistent with the requirements of R.I.G.L. 16-2-2; provided further, however, that in no fiscal year shall a deficit be permitted for school operations.

Committee funds and refusing to process payment vouchers upon the exhaustion of the unencumbered appropriated funds. We shall order the City of Woonsocket to remove any and all encumbrances on appropriated School Committee funds, and to pay all School Committee bills on the order of the School Committee to the extent that appropriated funds exist in School Committee accounts.

Conclusion

The School Committee's request for an interim order requiring the City of Woonsocket to immediately fund the School Committee's budget deficit for the 1992-1993 fiscal year is denied. The School Committee's request for an interim order removing the City's encumbrance on appropriated School Committee funds for the 1992-1993 fiscal year is granted. We hereby enter an interim order, pending full hearing and argument on the merits, if requested,[6] requiring the City of Woonsocket to remove any and all encumbrances on appropriated School Committee funds for the 1992-1993 fiscal year, and requiring the Woonsocket City Controller to pay all School Committee bills on the order of the School Committee to the extent that appropriated funds exist in School Committee accounts.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: June 7, 1993

6 In the event that no further hearing or argument is requested, this interim order shall also constitute the decision of the Commissioner in this matter.