

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

Date of decision: 8th March, 2011

+ **W.P.(C) 1302/2010 & CM No.2095/2011 (of the petitioner for placing order dated 21st January, 2011 passed in SLP No.627/2011 for disposal of the writ petition)**

% **SIDDHARTH INTERNATIONAL
PUBLIC SCHOOL****Petitioner**
Through: Mr. R.M. Singh, Adv.

Versus

GOVT.OF N.C.T.OF DELHI **Respondent**
Through: Mr. Sunil Bagai, Adv.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | No |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | No |

RAJIV SAHAI ENDLAW, J.

1. The writ petition has been filed seeking mandamus to the Directorate of Education of the Govt. of NCT of Delhi to upgrade the petitioner, a Middle School, to Secondary Level. Notice of the writ

petition was issued. Pleadings have been completed. The counsels have been heard.

2. The petitioner, Siddharth International Public School, Opposite Pocket-B Park, Gurdwara Road, Dilshad Garden, Delhi being run by Ravi Bharti Shiksha Samiti, a Society registered under the Societies Registration Act, 1860 was allotted a plot of land on which the petitioner School is situated by the Delhi Development Authority (DDA) for the purposes of setting up a Middle Level School and was vide letter dated 13th June, 2007 of the Directorate of Education granted recognition from classes Ist to VIIIth. The petitioner claims to be successfully running the said Middle School since the academic year 2007-08.

3. The petitioner School on 31st August, 2007 applied for upgradation from as a Middle School to a Secondary School i.e. having classes till Xth standard. The Deputy Director of Education, North East conducted an inspection of the petitioner School on 21st February, 2008 for finding out whether the petitioner School was deserving of the said upgradation or not. A favourable report dated 16th July, 2008 submitted. The petitioner School claims that notwithstanding the same and notwithstanding the petitioner

School having given replies to the notices dated 20th November, 2008, 12th January, 2009 and 6th March, 2009 issued by the respondent to the petitioner School, satisfying the respondent that the petitioner School complies with all other requirements and further, notwithstanding the petitioner School having removed the deficiencies pointed out in the said notices, the request of the petitioner School has not been acceded to. Hence, this writ petition.

4. The respondent in its counter affidavit has pleaded that the petitioner School cannot be granted upgradation for the reason of the allotment of the land by the DDA being for a Middle School only. It is also contended that serious allegations had been made against Ravi Bharti Shiksha Samiti; that it had been learnt that the members of the said Society and their family members have floated various Societies to fleece the masses. It is contended that All India Siddharth International Educational Society running Vaishali International School at 472A Bhola Nath Nagar, Shahdara, Delhi is one such Society and which School has since been closed with huge arrears of emoluments to the teachers. It is also contended that the petitioner had illegally started classes IXth and Xth from

2nd July, 2007 i.e. even before the date of its application for upgradation. It is contended that no replies have been given to the notices issued and the petitioner School has failed to satisfy the respondent with respect to the deficiencies pointed out. It is also contended that a notice dated 2nd July, 2009 has been issued for withdrawal of recognition of all Schools including the petitioner School for the reason of being associated with All India Siddharth International Educational Society.

5. The counsel for the petitioner School controverts that the notice dated 2nd July, 2009 was received by the petitioner School. From the face of the said notice also, it is not clear whether the said notice was sent to the petitioner School or not. In any case, the admitted position is that no reply has been given by the petitioner School to the said notice.

6. I have enquired from the counsel for the respondent as to the action, if any taken in pursuance to the notice dated 2nd July, 2009. No action is stated to have been taken till now.

7. I have enquired from the counsel for the respondent as to whether the guidelines for upgradation of School copy whereof has been handed over in the Court, provides for denial of upgradation to a School run by a

Society which has members in common with another Society running another School and against which School there may be allegations of malpractice. No definite reply is forthcoming.

8. The counsel for the petitioner School denies any connection between the petitioner School on the one hand and Vaishali International School or All India Siddharth International Educational Society on the other hand. It is contended that coincidentally the name of petitioner School is same as of Society running Vaishali International School.

9. *Prima facie* it appears that if for the reason of commensality if any, the recognition already granted is not to be withdrawn, then on the same parity, the upgradation should not be denied.

10. With respect to the objection qua the land having been allotted for Middle School only, attention is invited to the Notification dated 12th January, 2004 of the Directorate of Education permitting grant of recognition one level above from the level of the School mentioned in the lease deed. It is thus contended that the petitioner School even though having been allotted land for a Middle School, is entitled to recognition upto the level of Secondary School, being the level above the Middle

School.

11. The counsel for the petitioner School during the course of hearing has suggested that since it is the stand of the respondent that it had not received the replies stated to have been given by the petitioner School to the notices, the petitioner School be given an opportunity of hearing before the respondent to satisfy the respondent as to all the deficiencies pointed out in the notices having been removed. It is also offered that the respondent if so desires may conduct another inspection of the petitioner School to satisfy itself of the eligibility of the petitioner School for upgradation.

12. It is also deemed appropriate to grant an opportunity to the petitioner School to reply to the noticed dated 2nd July, 2009 (supra) so as to enable the petitioner School to satisfy the respondent that the petitioner School is distinct from All India Siddharth International Educational Society and/or Vaishali International School.

13. It has been enquired from the counsel for the respondent whether the respondent needs to issue any further notice eliciting any further information or pointing out any further deficiencies, from in the petitioner

School, for adjudicating the application of the petitioner School for upgradation. The answer is in the negative.

14. In the circumstances, the writ petition is disposed of with the following directions:-

- (i) The petitioner School to within four weeks from today submit to the respondent further replies/copies of replies already submitted to the notices dated 20th November, 2008, 12th November, 2009, 6th March, 2009 and 2nd July, 2009.
- (ii) The petitioner School to appear before the Directorate of Education for personal hearing on 20th April, 2011 at 1100 hours and on such subsequent dates as may be fixed.
- (iii) The Directorate of Education shall be entitled to at any time if so desires, conduct another inspection of the petitioner School for the purposes of taking a decision on the application of the petitioner School for upgradation. If the inspection is carried out and any fresh deficiencies are found, the notice with respect thereto shall be given and the petitioner School shall have an opportunity to remedy/meet the same.

(iv) The Directorate of Education to pass a speaking/reasoned order on the said application on or before 31st May, 2011. The said order to also record reasons for the commensality, if any found in All India Siddharth International Educational Society and Ravi Bharti Shiksha Samiti and the reasons for denying upgradation for the said commensality.

No order as to costs.

Copy of this order be given *Dasti* to counsels for the parties under signature of the Court Master.

**RAJIV SAHAI ENDLAW
(JUDGE)**

MARCH 08, 2011
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