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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 233/2011

GYAN MANDIR SOCIETY

... Petitioner

Through: Mr R.S. Sudhinder with Ms Perna Amitabh

versus

UNION OF INDIA & ORS

... Respondents

Through: Mrs Avnish Ahlawat with Ms Latika
Chaudhary and Mr Nitesh Kumar Singh

+ LPA 723/2011

GYAN MANDIR SOCIETY

... Appellant

Through: Mr R.S. Sudhinder with Ms Perna Amitabh

versus

UNION OF INDIA & ORS

... Respondents

Through: Mrs Avnish Ahlawat with Ms Latika
Chaudhary and Mr Nitesh Kumar Singh

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

26.07.2012

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In this writ petition as well as in the connected LPA the only issue that is of concern is whether private schools should not be permitted to run a second shift.

By virtue of the letter dated 13.07.2010, the petitioner who had applied for permission to run a second shift in the school (Indian School) has been denied that

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permission on the ground that a policy decision has been taken not to permit recognized (aided and unaided) schools to have a second shift anymore in view of the fact that according to the decision taken it would not be in the interest of the children.

Subsequently, pursuant to certain directions given by this Court on 22.03.2011 in the matter of the present petitioner itself in CWP 233/2011 and CM No.426/2011 the matter was considered by the respondent particularly by the Director (Education), who, after examining the same, came to the conclusion that in his considered opinion running of second shift/evening shift is not in the interest of children, in particular, and of education in general. Consequently, the request of the Indian School for running a second shift was, therefore, rejected. The petitioner is also aggrieved by this rejection.

On instructions, Mrs Avnish Ahlawat appearing for the Education Department submitted that a policy decision has been taken that the second shift in schools would be running counter to the interest of the children and, therefore, no new permissions are to be granted for running the second shift in schools.

The learned counsel for the petitioner, however, submitted that if there was such a policy, it should be uniformly applied across the board. He points out that there are several government schools which are running a double shift. In response, the learned counsel for the respondent submitted that the double shift was being run to segregate the boys and girls and there are attempts going on to merge the two shifts into one so that those schools become co-ed schools. However, they have received some resistance from parents who do not want their girls to go to a co-ed school. It is for this reason that in some Government schools there are two shifts which are continuing. However,

according to Mrs Ahlawat, the policy decision is that in all schools a second shift should not be permitted as it is contrary to the interest of children.

Despite this, the learned counsel for the petitioner insisted that since they have the infrastructure, they should be permitted to run a second shift as it would lead to optimum use of the infrastructure and also enable them impart education to greater number of children, particularly, when there is shortage of schools in the capital.

We do not want to enter into this controversy as it concerns a policy matter. Courts are ill-equipped in this regard. It would be best to leave it to the experts in the field. In this connection, the learned counsel for the petitioner drew our attention to Section 23 of the Delhi School Education Act, 1973 which contemplates an Advisory Board to advise the Administrator in all matters of policy relating to education. He requested that this matter be placed before such an Advisory Board so that they may examine the entire issue of the second shift from the stand point of experts in education and according to this advice, the Administrator should take appropriate action in that regard.

We feel that this would be the appropriate course in the present matter. Consequently, we direct the petitioner to file a representation with regard to its case for running a second shift in its school. The same be considered by the Advisory Board. The said representation be filed within two weeks and the Advisory Board would take a decision within two months and the reasoned advice would be submitted to the Administrator for further action, in accordance with law.

With these directions and observations, the writ petition and the LPA stand disposed of.


BADAR DURREZ AHMED, J


SIDHARTH MRIDUL, J

JULY 26, 2012
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