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

+ LPA 275/2016 & C.M.No.16235/2016 (*stay*)

RAJDHANI PUBLIC SCHOOL & ANR Appellants
Through: Mr.Shiv Khorana, Mr.Ashish
Khorana, Mr.Jaspreet Kapoor, Advs.

Versus

DIRECTOR OF EDUCATION & ANR Respondents
Through: Mr.Santosh Kumar Tripathi, ASC for
R-1 & 2/GNCT of Delhi.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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03.05.2016

C.M.No.16236/2016 (*exemptions*)

Allowed subject to all just exceptions.

LPA No.275/2016

1. This appeal is preferred against the order of the learned Single Judge dated 31.03.2016 in W.P.(C) No.6220/2015. The writ petitioners are the appellants before us. The said writ petition was filed assailing the order of the Directorate of Education dated 06.05.2015 rejecting the request of the petitioner No.1/School for upgradation upto Senior Secondary level with two streams on the ground that the appellant/School had failed to follow the provisions of Rule 50(ix) of the Delhi School Education Act and the rules made thereunder.

2. Initially, by order dated 02.03.2016, the learned Single Judge directed the officials of the Directorate of Education to visit the appellant/petitioner's premises on 11.03.2016 at 2.00 p.m.

3. Against the said order, the Directorate of School Education preferred LPA No.158/2016. However, the said LPA was dismissed recording the statement of the parties that an application has been filed by the Directorate of Education before the learned Single Judge for recalling the order dated 02.03.2016 stating that the officials were threatened by the writ petitioners with dire consequences. The recall petition being C.M. No.9145/2016 was listed before the learned Single Judge on 31.03.2016. After hearing the parties, the learned Single Judge opined that the allegations in the application prima facie disclosed commission of cognizable offence and accordingly directed the Directorate of Education to register an FIR with the concerned Police Station. The Police were also directed to investigate the matter in accordance with law and file a status report before the next date of hearing and till such time the learned Single Judge decided not to take up the writ petition for hearing. Accordingly, the writ petition was directed to be listed on 16.05.2016 to enable the Police to file the status report. The said order is assailed before us in the present appeal.

4. After hearing the learned counsel for both the parties, we are unable to hold that the order under appeal suffered from any infirmity warranting interference by us. As noticed above, the writ petition is still pending and having found a prima facie case in the allegations made by the officials of the Directorate of Education in the recall petition, the learned Single Judge thought it fit to direct investigation by the Police. Having held so, the learned Single Judge is justified in holding that the proceedings in the writ petition shall remain stayed till the Police files its status report.

5. Though it is contended by the learned counsel for the appellants that the application to recall itself is frivolous and the allegations made therein are false and in fact the respondents themselves have been intentionally delaying the process of granting upgradation to the appellant No.1/School, we do not wish to enter into the said controversy and express any opinion since the writ proceedings are still pending and the appellants have an opportunity to urge all the grounds as permissible under law before the learned Single Judge.

6. Accordingly, the appeal is dismissed. No costs.

CHIEF JUSTICE

JAYANT NATH, J

MAY 03, 2016
'anb'