$~66

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

\+ W.P.(C) 4506/2016

JINDAL CHARITABLE SOCIETY ..... Petitioner

Through: Mr. Kamal Gupta, Adv.

versus

NORTH MUNICIPAL CORPORATION OF DELHI..... Respondent

Through: Mr. Ajay Arora and Mr. Kapil Dutta, Advs.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

O R D E R

% 19.05.2016

CM No. 18793/2016

Allowed, subject to all just exceptions.

Application is disposed of.

W.P. (C) 4506/2016

By this writ petition, petitioner has prayed as under :-

a) issue a writ, order or direction in the nature of certiorari quashing the action on the part of Respondent/North MCD in charging from the petitioner a sum of Rs.33,88,500/- as Additional FAR charges against the Rules, Regulations and provisions of MPD 2021 as well as in violation of the principles of equity, justice and good conscience;

b) issue a writ, order or direction in the nature of Mandamus directing the respondent/North MCD to forthwith refund along with interest, the amount of Rs.33,88,500/- illegally charges from the petitioner as Additional FAR charges for sanctioning the building plans;

Leaned counsel for the respondent appears on service of advance paper book.

Heard.

Counsel for the petitioner submits that petitioner is exempted from paying the additional FAR charges in view of the certificate issued by the Income Tax Department for the year 2010-11. He has submitted that additional FAR cannot be charged in view of the judgment dated 21st May, 2014 passed in W.P. (C) 3205/2014 titled St. Kabir Educational Society vs. North Municipal Corporation of Delhi & Anr., wherein it was held as under:-

> "Guided by the judgment of the Division Bench dated 30.4.2014, passed in LPA No.107/2014 and the other connected writ petitions, the present petition is allowed on the same lines. It is held that the petitioner/Society is entitled to refund of a sum of Rs.1,41,84,200/- deposited with the respondent No.1/NDMC towards the additional FAR within a period of eight weeks. In case the respondent No.1/NDMC fails to refund the amount within the stipulated time, then the said amount shall carry interest @ 12% p.a., reckoned from the date of expiry of the eight weeks."

He has also placed reliance on Division Bench decision dated 17th July, 2012 passed in LPA 107/2014 tiled Delhi Development Authority & Anr. vs. Jagan Nath Memorial Educational Society.

By following the law laid down in St. Kabir Educational Society and Jagan Nath Memorial Educational Society (Supra), a bench of coordinate jurisdiction, vide order dated 25th March, 2015 passed in W.P. (C) 2655/2015 titled Bajaji Education Society vs. North Municipal Corporation of Delhi, has disposed of the petition in the similar circumstances by directing the respondent to process the petitioner's claim on petitioner providing necessary certificate for the relevant period.

In the above facts and circumstances, present writ petition is disposed of with the directions to the petitioner to provide necessary certificate (i.e. indicating that petitioner was exempted to pay additional FAR charges from the Income Tax Department for the relevant period) to the respondent. If any such certificate is provided by the petitioner to the respondent within a period of two weeks from today, respondent shall process the claim of the petitioner within six weeks thereafter. In terms of St. Kabir Educational Society (Supra), respondent shall also be liable to pay the interest if refund is not processed within the period as indicated above.

Copy of the order be given Dasti to the parties.

A.K. PATHAK, J.

MAY 19, 2016
ga