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

+ LPA 356/2016

ALL DELHI MOTOR DRIVING TRAINING SCHOOL
ASSOCIATION

..... Appellant

Through: Mr. N.S. Dalal with Ms. Ruchika
Sharma and Mr. Aman Mudgal, Advs.

Versus

DRIVING SKILL INSTITUTE & RESEARCH & ORS

..... Respondents

Through: Mr. Vishnu Sharma with Ms. Sonika
Tyagi and Mr. Sajid Malik, Advs. for R-1.

Mr. Anuj Aggarwal, ASC, GNCTD for R-2.

Mr. R.C. Chawla, Standing Counsel along with
Ms. Inderjeet Sidhu, Adv. for R-4.

Mr. P. Roy Chaudhuri, Sr. Standing Counsel for
Income Tax Deptt.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **30.05.2016**

CM No.21185/2016 (exemption)

Allowed, subject to all just exceptions.

LPA No.356/2016 & CM No.21186/2016 (stay)

1. This appeal is preferred against the order of the learned Single Judge dated 11.05.2016 in W.P.(C) No.2840/2016.

2. The respondent No.1 herein filed the said writ petition alleging that the Motor Driving Training (MDT) Schools are issuing Form-5 (Training Certificates) to the commercial drivers of Delhi without following the mandatory provisions of the Motor Vehicles Act and the Rules made thereunder and thus seeking a direction to the respondent No.2 herein to take appropriate action against the MDT Schools and further not to issue Form-5 to any MDT School till the complaints made by the petitioner are considered and decided.

3. By the order under appeal dated 11.05.2016, the learned Single Judge has constituted a committee to look into the working of Motor Driving Training Schools and also to consider the complaints made by the writ petitioner as well as others in respect of working of the MDT Schools. The writ petition is still pending and stands posted to 05.09.2016 for considering the report of the committee.

4. The present appeal came to be filed assailing the order of the learned Single Judge on various grounds including that the writ petition itself is not maintainable; that the writ petition is based on unsubstantiated allegations; that there is no prayer for constitution of a committee and that having regard to the fact that a committee has already been constituted by the Department for the said purpose, the constitution of a further committee by this court is not warranted.

5. While reiterating the same, Shri N.S. Dalal, the learned counsel for the appellant has vehemently contended that the order under appeal is liable to be set aside also on the ground that the same was passed without providing an opportunity of hearing to the appellant. It is pointed out by the

learned counsel that the appellant was not impleaded as a respondent to the writ petition.

6. However, we found that the appellant herein was also heard by the learned Single Judge and in Para 5 of the order under appeal it was recorded as under:-

“5. Mr. N.S. Dalal, learned counsel for Delhi Motor Driving Training Schools Association, submits that he would also make a representation to the Committee for being considered by the Committee.”

7. We are, therefore, of the view that the appellant cannot now turn around and contend that the order was passed behind its back and that the committee was constituted without hearing it. Even regarding the contention that the statement made on behalf of the appellant was not correctly recorded in the order under appeal, we are of the view that it is for the appellant to move an appropriate application in the writ petition itself, but it cannot be a ground to maintain an appeal under the Letters Patent.

8. Accordingly, leaving it open to the appellant to move an appropriate application before the learned Single Judge, if so advised, the appeal is dismissed.

CHIEF JUSTICE

JAYANT NATH, J

MAY 30, 2016

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