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

% Judgment delivered on: 21.07.2016

+ **W.P.(C) 5992/2016**

PRESIDIUM SCHOOL SECTOR 16-B DWARKA Petitioner

versus

DIRECTORATE OF EDUCATION GOVT OF NCT
OF DELHI AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sandeep Sethi, Senior Advocate with Ms. Savita
Malhotra

For Respondent Nos.1 & 2 : Mr. Anuj Aggarwal and Ms. Neeti Jain

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

21.07.2016

SANJEEV SACHDEVA, J. (ORAL)

CM No.24646/2016(exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5992/2016 & CM No. 24645/2016(stay)

1. The petitioner impugns order dated 17.06.2016 passed by the Director (Education) whereby directions were issued to the Petitioner under section 24(3) of the Delhi School Education Act, 1973.

2. It is contended by the petitioner that the Deputy Director (Education) issued notice to the petitioner – School alleging that the fee

structure submitted by the School for the year 2015-2016 provided for a hike of more than 10% which violated the guidelines. The School was required to show-cause as to why the action be not initiated against the School. Appropriate reply to the said show-cause notice was submitted by the School.

3. It is contended that on 19.01.2016, an order was passed by the Directorate of Education issuing certain directions. The petitioner, on 01.02.2016, represented to the Deputy Director of Education for withdrawal of the directions issued by the order dated 19.01.2016 and requested for an opportunity of hearing.

4. On 23.03.2016, it is contended, that the Deputy Director of Education called the petitioner for a hearing on 29.03.2016. The petitioner – School was heard on 31.03.2016 by the Additional Director. Written submissions were also filed by the petitioner on 04.04.2016.

5. The parents of some of the students of the petitioner – School filed W.P.(C) No.2447/2016. The said petition was disposed of on 18.04.2016 noticing that the matter was under active consideration of Directorate of Education and directing that an opportunity of hearing be also given to the parents.

6. Pursuant to the order dated 18.04.2016, in W.P.(C) No.2447/2016, the parents were called for hearing on 10.05.2016. The parents were given a hearing. Though the School was represented but was not called upon to make any submissions.

7. It is contended that the hearing on 10.05.2016 was also given by the Additional Director. The impugned order dated 17.06.2016 has been passed by the Director (Education). The learned senior counsel for the petitioner contends that the impugned order has been passed in violation of the principles of natural justice inasmuch as the officer, who heard the petitioner, did not pass the order and the officer, who passed the order, did not give a personal hearing.

8. Learned counsel for the respondents, fairly states that the hearing was given to the petitioner – School as also to the parents by the Additional Director and no personal hearing was given by the Directorate of Education. He further submits that the Additional Director has been delegated the power to conduct the hearing and pass the order. He contends that the Director of Education, being the superior authority, was empowered to pass the order. He submits that the Director (Education) took into account the written submissions filed by the petitioner on conclusion of the personal hearing given by the Additional Director.

9. Principles of natural justice require that no person should be condemned unheard. The purpose of granting an hearing is for a person to apply his/her mind to the submission of the other. The hearing is not a mere formality. A person who hears the matter, should decide the same. Admittedly, in the present case, hearing was given to the petitioner – School by the Additional Director (Education). The Additional Director (Education) is not the one who passed the impugned order. The impugned order has been passed by the Director of Education, who has, admittedly, not heard the petitioner. The impugned order clearly violates

the principles of natural justice.

10. In view of the above, the impugned order is set aside. The matter is remitted to respondent No.1 for conducting a fresh hearing. Learned counsel for the respondents submits that the hearing shall be given by the Director (Education). The petitioner is directed to appear before the Director (Education) on 25.07.2016 at 9 a.m. at the Director's office, Directorate of Education, Old Secretariat, Civil Lines, Delhi-110054. The Director (Education) shall hear the petitioner on the said date or on such other dates, as he may deem appropriate. The Director (Education) shall dispose of the proceedings within a period of three weeks from the commencement of hearing.

11. The writ petition is accordingly disposed of.

12. *Dasti* under signatures of the Court Master.

JULY 21, 2016
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SANJEEV SACHDEVA, J