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

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Judgment delivered on: 28.07.2016

+ W.P.(C) 6363/2016 C.M.26075/2016

MISS NASRIN (MINOR) THROUGH FATHER SH. MOHD.

NAUSHAD

..... Petitioner

Through

versus

BALVANTRAY MEHTA VIDY BHAWANA ANGURIDEVI
SHERSINGH MEMORIAL ACADEMY AND ANR

..... Respondent

Through

Advocates who appeared in this case:

For the Petitioner

:Mr Khagesh B. Jha, Advocate

For the Respondents

: Mr. J.M. Bagga, Accounts Officer from respondent No.1 in person.

Mr. Manmeet Singh Arora, Advocate for respondent No.2 with Mr. Tanvir Alam, LA from Zone 29

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

28.07.2016

SANJEEV SACHDEVA, J. (ORAL)

1. The present writ petition has been filed seeking quashing of letter dated 15.02.2016 whereby the admission of the petitioner has been cancelled and name of the petitioner has been struck off from the rolls of the school on the ground that income certificate furnished at the time of seeking admission was fake and forged.

2. Learned counsel for the petitioner contends that the income of the

parents of the petitioner is less than Rs. One lakh per annum which is below the prescribed limit for the Economically Weaker Section (EWS) category. Fresh certificate dated 28.05.2016 has been filed along with the petition. The respondent no. 2 was directed to verify the correctness of the certificate. Learned counsel for respondent no. 2 has produced a copy of the certificate with an endorsement by the office of Tehsildar/Executive Magistrate, Kalkaji, South East District certifying that the certificate has been issued by the said office. The copy of the certificate with the endorsement is taken on record.

3. Mr. J.M. Bagga, the Accounts Officer is present on behalf of the respondent No.1 and has produced a letter dated 26.07.2016 wherein it is stated that it appears that the parents of the 16 students (including these two students) appear to be from EWS category. The school has no objection if the court were to allow them to continue in the school under the EWS and DG Freeship Quota. The affidavit states that the parents have obtained fresh income certificate issued by the competent authority. Letter dated 26.07.2016 is taken on record.

4. Learned counsel for the petitioner relies on various judgments passed by this Court in similar circumstances whereby the school authorities were directed not to cancel the admission of the minor child on the ground of misdeeds of the father of the child. Learned counsel for the respondent school states that the seats in EWS category are still available. One such Judgment relied upon is dated 22.03.2016 in W.P.(C) 2219/2016, titled as **‘Master Jai Raikwar & Ors. Vs. The Heritage School & Ors.’**.

5. As the issue involves the education of a minor and the minor falls in the eligible category and an income certificate certifying the said fact has been furnished and no fault can be attributed to the minor, in the facts of the case, a lenient view is required to be taken. It is thus directed that the admission of the petitioner be restored and not cancelled, subject to deposit of a penalty of Rs. 5,000/- by the father of the petitioner with the Lok Nayak Jai Prakash Hospital, Delhi within two weeks. The hospital shall utilize the amount for providing treatment to the persons falling under the EWS category.

6. The petitioner shall also be entitled to all the benefits/entitlements under the said category. The writ petition is accordingly disposed of in the above terms.

7. It is clarified that if the new income certificate furnished by the petitioner is found to be fictitious or not correct on any account, it shall be open to the respondents to cancel the admission of the petitioner in accordance with law and no special equity shall be claimed by the petitioner by virtue of the present order.

8. This Court appreciates the fairness shown by the respondent No.1 school.

Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

JULY 28, 2016
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