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

+ W.P.(C) 4156/2015

SUMAN KUMAR CHOUDHARY Petitioner
Through: Petitioner in person.

versus

S.S. MOTA SINGH SENIOR SECONDARY
MODEL SCHOOL AND ANR. Respondents
Through: Mr. Siddharth Yadav, Adv. for R1.
Ms. Isha Khanna, Adv. for R2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **11.01.2016**

1. In this writ petition, the following substantive prayers have been made:-

“...1. To secure annual school examination result of both children of the petitioner from school / defendant no.1.

2. To direct the school / defendant no.1 to allow / permit the children to attend their respective classes to continue their education unconditionally without any hindrance and discrimination.

3. To facilitate the aggrieved children of the petitioner by way of providing free school books and uniforms and other related items, as been provided to economically weaker section (EWS) category.

4. To direct the school / defendant no.1 to waive off all the outstanding dues pending against the petitioner, the father of the children.

5. To direct the school / defendant No.1 to accommodate the children of the petitioner under “EWS” category and facilitate all the conveniences accordingly.

6. To direct the Directorate of Education, Delhi to provide relief / assistance to the children of the petitioner in compliance of the above order and..”

2. These prayers are made, broadly, in the following background facts:-

2.1. The petitioner is the parent of two young children who are admitted to respondent No.1 school. Presently, the older child Master Neetigya is admitted to class VII, while the younger child, Master Kreetigya, is admitted to Class IV. The petitioner who, I am told, is by vocation an advocate, is not, apparently, in a position to afford the fee that is payable for his wards to respondent No.1.

2.2. Since, the continuation of petitioner’s wards in respondent No.1 school, on account of default in payment of fees was under threat, the instant writ petition was filed. This writ petition came up for hearing before the court on 27.4.2015, when my predecessor directed respondent No.2/Directorate of Education (in short DOE) to ascertain as to whether there was any provision for providing free education to students who fall on hard times and were unable to afford education of their children.

2.3 The matter was, on that date, directed to be re-listed on 14.5.2015.

2.4 On 14.5.2015, the learned counsel then, appearing for respondent No.2/DOE, drew the court's attention to Rule 158 of Delhi School Education Rules, 1973 (in short the Rules). On that date, this court passed an interim order in favour of the wards of the petitioner, whereby, the following directions were issued:-

“.... In the given circumstances, it is directed that the children of the petitioner shall be permitted to attend respondent no.1 school, undertake all activities and also take the examinations along with other regular students till the next date of hearing.....”

2.5 The matter was thereafter, listed on 1.9.2015. On that date, no hearing was held. Thereupon, the matter was listed on 7.10.2015 before me, when, learned counsel for respondent No.1 school stated that he will examine the issue raised in the writ petition and, if possible, will attempt to persuade the relevant authorities to exempt the tuition fee of the petitioner's wards.

2.6 Consequently, at the said hearing, the matter was directed to be listed on 11.12.2015. On 11.12.2015, counsel for respondent No.1 school stated that he would file an affidavit indicating therein the charges that were due towards tuition fee and other expenses qua the wards of the petitioner and, the amounts that would become payable in that behalf over the next three years.

2.7 It is in these circumstances that the matter got listed for hearing today.

2.8 The record revealed that the affidavit of respondent No.1 school was not on record. Since, Mr. Yadav, learned counsel for respondent No.1 stated before me that an affidavit had been filed with the registry on 8.1.2016, the affidavit, was summoned from the registry.

2.9 A perusal of the affidavit shows that respondent No.1 school has set out the amounts that the petitioner is required to pay towards fee. A copy of this affidavit has also been furnished to the petitioner.

3. The petitioner, who appears in person, says that as per the affidavit, on account of fee, he is required to pay a total sum of Rs.3,70,540/-. I am

further informed by the petitioner that he is, presently, working with a law firm by the name of M/s Gaur Associates, situate at T-7, Sector-19, Dwarka, and that, he is earning a sum of Rs.8,000/- per month.

3.1 The petitioner says that they are a family of four, and since other day-to-day expenses for bare necessities have to be incurred, he is, presently, unable to bear the burden of fee which is required to be paid to educate his children.

4. I have heard both the petitioner, who appears in person, as well as Mr.Yadav, counsel for respondent No.1 school, as also, Ms. Isha Khanna, who appears for respondent No.2/DOE.

5. Having considered the matter at some length, I am of the view that since, the petitioner has claimed that he is not financially solvent, the provisions of Rule 158 of the 1973 Rule would apply. However, in order to gain exemption from fee, wholly or in part, he would have to produce, in the first instance, the relevant material before the head of the school (in this case the Principal of respondent No.1 school). Under the said rule, the head of the concerned school would have to pass an order after considering the state of solvency of the petitioner.

6. While passing the order, the head of the concerned school will take into account the state of financial solvency of the applicant (in this case the petitioner), and then, decide whether the request made by him for exempting his wards from payment of fees, should be passed or not. The decision will also have to be taken, if exemption of fee has to be granted, as to whether it has to be given for the whole amount or one half of that amount.

7. In these circumstances, the writ petition is disposed of with a direction to the Principal of respondent No.1 school to take a decision in the matter.

8. Pending the decision, the interim order passed by this court dated 14.5.2015, will continue to operate.
9. If, for any reason, the decision taken goes against the interest of the petitioner, the same shall not be given effect to for a period of six weeks, post the date of the order. The petitioner will have liberty to approach the court in case such an eventuality arises.
10. It is also made clear that the petitioner will be free to place before the Principal of respondent No.1 school, all material that he may have in his possession in support of his plea, with regard to the state of his financial solvency.
11. Needless to say, the Principal of respondent No.1 school will grant a hearing to the petitioner before passing any order in the matter.
12. Dasti.

RAJIV SHAKDHER, J.

JANUARY 11, 2016
s.pal