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

+ W.P.(C) 7584/2016

KUMARI REEMA SINGH (MINOR) & ORS. Petitioners
Through: Mr. L.B. Rai, Mr. Mohit Kr. Sharma
and Mr. Kartik Rai, Advs.

versus

CHINMAYA VIDYALAYA & ANR. Respondents
Through: Mr. Kapil Gupta, Adv. for R1.
Mr. Peeyoosh Kalra, ASC, GNCTD
with Ms. Sona Babbar, Adv. for R2.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **15.12.2016**

1. Mr. L.B. Rai, learned counsel for the petitioners has filed a fresh list of dates and events.
2. The present petition has been filed by three minors through their father and natural guardian namely Mr. Suraj Bhan. The prayers as made in the petition are as under:

“(a) To pass an appropriate writ, order or direction whereby directing the respondent no.1 school to restore the admission of the petitioners in the respondent no.1 school at its original position and to allow all the facilities which were entitled to the petitioners in the respondent no.1 school earlier.

(b) To pass an appropriate writ, order or direction

whereby directing the Respondent No.1 school to cancel the letter dated 26.05.2016 by which the admission of the petitioners were cancelled.

(c) Pass such other order or orders as this Hon'ble Court may deem just and proper in the facts and circumstances of this case."

3. It is contended by Mr. L.B. Rai, learned counsel for the petitioners that Mr. Suraj Bhan was engaged with Jupiter Administrative and Security Services Pvt. Ltd. and was posted in the respondent no.1 / School in the year 2009. He was drawing a salary of Rs.5,800/- per month making his yearly income as Rs.69,600/-. Petitioners were admitted in the respondent no. 1 / School in the year 2011, 2012 and 2015 respectively, on the basis of economically weaker section certificate submitted by their father Mr. Suraj Bhan. On 30th January, 2012, Mr. Suraj Bhan submitted a certificate with no. 9131044261 dated 30th January, 2012 certifying him to be of economically weaker section. He submitted another certificate on 11th January, 2014 in which his monthly income was shown as Rs.6,000/- per month. A further certificate was submitted by Mr. Suraj Bhan on 23rd December, 2014 to the respondent no. 1 / School wherein his income was shown as Rs.7,000/- per month.

4. Mr. Rai would submit that on 13th April, 2016 a further certificate was obtained by Mr. Suraj Bhan with no. 90550000123801. He would further submit that on 26th May, 2016, respondent no. 1 cancelled the admission of all the three petitioners on the ground that Mr. Suraj Bhan, father of the petitioners had submitted fake certificates dated 30th January, 2012 and 16th December, 2014. During the pendency of the petition, Mr. Suraj Bhan

obtained another certificate with no. 90550000193623 dated 29th September, 2016 from the Office of the District Magistrate, Vasant Vihar, New Delhi District wherein it has been certified that his income from all sources is Rs.90,000/- per annum. The said certificate has been placed on record by way of additional affidavit filed on 17th October, 2016.

5. On the last date of hearing, learned counsel for the respondent no.2 sought some time to get the certificate verified. She has placed before me a letter dated 1st December, 2016 written by Tehsildar, Vasant Vihar to the Additional Standing Counsel for GNCTD wherein it has been represented that income certificate with no. 90550000193623 in respect of Suraj Bhan has been issued from his office on 29th September, 2016. In other words, the certificate is genuine.

6. It is the submission of Mr. Rai that the minor children could not be penalised for the acts of their father. He would also rely upon Annexure P-5, which is an order dated 3rd August, 2016 passed by this Court in writ petition no. 6407/2016, wherein this Court had restored the admission of the petitioners in the said writ petition.

7. On the other hand, Mr. Kapil Gupta, learned counsel appearing for respondent no. 1 would submit that in view of the certificate issued by Jupiter Administrative Security Services Pvt. Ltd., which has been placed on record by the respondent no. 1 / School in terms of their affidavit dated 27th September, 2016, the salary of Mr. Suraj Bhan per month was Rs.14,850/-. In other words, he states that on the date of filing of the petition the salary being above Rs.1,00,000/-, the impugned communication cancelling the

admission of the petitioners is justified.

8. The learned counsel appearing for respondent no. 2 states that the admissions are made on the basis of the income certificate issued by the concerned authority.

9. Noting the submissions made by learned counsel for the parties, it is noted that the certificate issued by the Jupiter Administrative and Security Services Pvt. Ltd. is to the effect that the Mr. Suraj Bhan was working with them till 19th May, 2016 and his salary was Rs.14,850/-. But the situation has changed and is clear from the additional affidavit filed by the father of the petitioners on 15th November, 2016 wherein in Para 2 it is stated as under:

“That the deponent states that the deponent presently is in employment of M/s. Rajdhani Coach Cluster Service Pvt. Ltd. as a helper and gets an sum of Rs.250/- per day. Thus the monthly income of the deponent is Rs.7,000/- per month and Rs.84,000/- per annum. That the statement made by the deponent is correct. A copy of letter dated 10th August, 2016 issued by M/s. Rajdhani Coach Cluster Service Pvt. Ltd. along with its true typed copy is annexed as Annexure-A.”

10. The aforesaid being the position, and the certificate issued on 29th September, 2016, wherein the income has been certified by the concerned authority being less than Rs.1,00,000/- and noting that the misdeeds of the father of the children should not come in their way to purse studies, this Court is of the view that impugned communication dated 26th May, 2016 needs to be set aside. Ordered accordingly. The admission of the petitioners is restored subject to a penalty of Rs.15,000/- to be deposited by Mr. Suraj

Bhan, father of the petitioners with Lok Nayak Jay Prakash Hospital, Delhi within three weeks from today. The Hospital shall utilize the amount for the treatment of the patients falling under EWS category. The petitioners shall be entitled to all the benefits entitled for the category.

11. The petition is disposed of as allowed on the above terms.

V. KAMESWAR RAO, J

DECEMBER 15, 2016/jg