$~24

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

\+ W.P.(C) 9126/2016, CM 36948/2016

SHYAM GUPTA THROUGH: HIS FATHER ..... Petitioner
Through: Mr.Ranjeet Kumar, Adv.

versus

D.A.V. PUBLIC SCHOOL & ORS ..... Respondents
Through: Mr.Shatrajit Banaerji, Adv. for Mr.Gautam Narayan, ASC for GNCTD/R-2.

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

<u>O R D E R</u>

% **16.11.2016**

1. With the consent of the parties, the writ petition is taken up for final disposal.

2. The present petition has been filed by Master Shyam Gupta, through his father Mr.Vikas Gupta, who got admission in nursery in the respondent no.1's school for the session 2015-16, under the EWS category based on income certificate issued to the father of the petitioner. It appears that the income certificate submitted by the father of the petitioner was found to be a fake and fabricated as the issuance of the same could not be verified from the records of the Revenue Department. The school also requested the father of the minor petitioner to submit income certificate duly verified by the concerned authorities by 15th March, 2016. It appears that no certificate was submitted by the father of the minor petitioner before 15th March, 2016. It also appears that as the admission of the minor child was cancelled, the School did not accept the certificate dated 6th April, 2016.

3. Learned counsel appearing for the respondent no.2 has placed before this Court a letter dated 5th October, 2016 of the Executive Magistrate addressed to the OSD in the office of the Deputy Director Education, wherein it has stated as under:-

> "*Reference your letter No. Nill dated 5th October, 2016 on the subject noted above, it is hereby informed that income certificate No.90550000120352 dated 6th April, 2016 has been found to be issued to Vikas Gupta S/o Sh. Suresh Gupta R/o B-46A, Near TN Public School Krishan Vihara, Pooth Kalan, Delhi-86 from this office as per record available. Status report in respect of said certificate generated from Department Portal is also enclosed herewith for ready reference.* "

4. From the said letter, the learned counsel for the respondent no.2 would submit that the said certificate dated 6th April, 2016 has been found to be genuine.

5. On the other hand, learned counsel for the School would justify the cancellation of the admission as the same was on the basis of the certificate, the details of which were not found available in the records of the Revenue Department.

6. Having considered the submissions made by the learned counsel for the parties, there is no dispute to the fact that the issue of this nature is covered by the judgments of this Court rendered in various writ petitions including WP(C) no.7240/2016 titled *Devvrat Singh Baghel Thr. His Father vs. DAV Public School & Ors.,* wherein this Court relying upon its earlier judgment in *Master Jai Raikwar & Ors. vs. The Heritage School & Ors.* in WP(C) No.2219/2016 decided on 22nd March, 2016 has allowed the writ petition. As the issue involves the education of a minor child and the minor

child falls in the EWS category and even though income certificate was found to be not genuine, no fault can be attributed to the minor and a lenient view need to be taken.

7. I take into consideration the submission made by the learned counsel for the respondent no.2 that the certificate dated 6^{th} April, 2016 is a genuine certificate. If that be so, it is directed that the admission of the petitioner be restored subject to deposit of a penalty of Rs.5,000/- by the father of the petitioner with the Jai Prakash Narayan Hospital within two weeks. The hospital shall utilize the said amount for providing treatment to the people falling in the EWS category. The petitioner shall be entitled to all the benefits of the EWS category.

8. The petition and the application are disposed of.

V. KAMESWAR RAO, J

NOVEMBER 16, 2016
RN