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

+ LPA 549/2016

ARMY PUBLIC SCHOOL

..... Appellant

Through: Mr. Ankur Chhibber, Advocate

Versus

MAMTA MODERN SENIOR SECONDARY SCHOOL & ORS

..... Respondents

Through: Mr. Pramod Gupta with Mr. Aman Baroka and Ms. Kashvi Dutta, Advocates for R-1.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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04.10.2016

CM No.37228/2016 & 37229/2016 (*exemption*)

Allowed, subject to all just exceptions.

LPA No.549/2016 & CM Nos.37228/2016 & 37229/2016

1. This appeal is preferred against the order of the learned Single Judge dated 03.10.2016 in W.P.(C) No.9160/2016. By the said order, the learned Single Judge set aside the proceedings of the Directorate of Education, GNCTD/respondent No.2 herein withdrawing the nomination of the respondent No.1 school from the Subroto Cup Football Tournament, 2016 and allowing the appellant school to participate in the said Tournament.
2. We have heard the learned counsel for both the parties.
3. As could be seen from the material available on record, the teams of the appellant school and the respondent No.1 school having participated in

selection trials of Pre-Subroto Cup Football Tournament, 2016 reached the finals. The respondent No.1 school won the pre-qualifying championship on 19.08.2016 and thus was qualified to represent Delhi in Subroto Cup Football Tournament, 2016. It appears that on a complaint made by the appellant school alleging that two of the players in the team of the first respondent school are over-aged, the respondent No.2 called upon the respondent No.1 school to explain the allegation and the respondent No.1 submitted the relevant material on 08.09.2016 itself to establish the eligibility of the players of its team. Another objection was raised by the respondent No.2 on 21.09.2016 alleging that one of the players, Master Mandeep Singh was not on the rolls of the first respondent school for at least two months prior to the start of the tournament in question as required under the circular dated 26.04.2016. The said objection was also clarified by the respondent No.1 school on 21.09.2016 itself and the material was produced to establish that Master Mandeep Singh had been admitted in the first respondent school and started attending classes with effect from 21.04.2016. Thereafter, the entry form for participation in the tournament was issued to the respondent No.1 school and the filled-in form was submitted on 28.09.2016. Pursuant thereto, identity cards were issued to all the participating students of the first respondent school. While the tournament was to commence on 04.10.2016, the respondent No.2 vide proceedings dated 30.09.2016 informed the respondent No.1 school that since the admission of the player i.e. Master Mandeep Singh is in contravention of the circular dated 26.04.2016, the nomination of the respondent No.1 school from the Tournament in question is withdrawn and in its place the appellant herein would participate in the Tournament.

4. Challenging the said proceedings, the respondent No.1 filed W.P.(C) No.9160/2016 after serving notice on the appellant school. The learned Single Judge heard both the parties on 03.10.2016 and disposed of the writ petition on the same day holding as under:

"9. The contention of the petitioner school is that Master Mandeep Singh had qualified 10th class Examination from Central Board of Second Examinations and had taken admission in the petitioner school in April, 2016, however, his school leaving certificate was issued later on 14.07.2016. The attendance record of Master Mandeep Singh was also furnished to the respondent no. 1 and 2.

10. The petitioner school has also placed on record the documents to show that the said Master Mandeep Singh had been admitted in the school and started attending classes w.e.f. 21.04.2016.

11. The relevant clause in the circular merely lays an embargo on the players. There is no embargo on the participation of the teams. In case, there was any issue about a particular player, the respondent no. 1 and 2 could have passed appropriate orders qua that player but there is no rule whereby the nomination of the entire team could be withdrawn.

12. In the impugned order the respondent no. 1 and 2 have not dealt with the contention of the petitioner school about the admission of Master Mandeep Singh in April, 2016 and his attendance records that shows that he is marked present since 21st April, 2016. Furthermore this issue is not even raised by the Army Public School in its representation. The petitioner school had qualified to represent the Delhi State by defeating the respondent no. 3 school itself.

13. In view of the above, the impugned order dated 30.09.2016 withdrawing the nomination of the petitioner school from the Subroto Cup Football Tournament, 2016, is not sustainable and is accordingly quashed. The writ petition is accordingly disposed of."

5. Against the said order the present appeal has been preferred. Having heard the learned counsel for the appellant as well as the respondent No.1, we do not find any justifiable reason to interfere with the order under appeal. It is clear from the material available on record that Master Mandeep Singh has been attending the classes in the respondent No.1 school with effect

from 21.04.2016. Even otherwise as rightly held by the learned Single Judge the circular dated 26.04.2016 does not appear to have created an embargo on participation of the entire team. Though the learned counsel for the appellant has vehemently contended that Master Mandeep Singh is over-aged even by December, 2014, we decline to enter into the said issue since the same was not the ground on which the nomination of the respondent No.1 school was withdrawn vide proceedings dated 30.09.2016.

6. Having regard to the fact that the Tournament in question was to commence on 04.10.2016, the learned Single Judge was justified in disposing of the petition without waiting for the counter affidavit of the appellant herein. Since notice was served on the appellant herein and the counsel representing the appellant was heard before deciding the writ petition, no prejudice can be said to have caused to the appellant herein merely on the ground that no opportunity was granted to file the counter.

7. For the aforesaid reasons, the appeal is devoid of merit and the same is accordingly dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

OCTOBER 04, 2016

gr/pmc