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

+ **W.P.(C) 11652/2016**

SALWAN BOYS SENIOR SECONDARY SCHOOL Petitioner
Through: Mr. Vinay Sabharwal, Advocate.

versus

DY. DIRECTOR EDUCATION AND ORS Respondents
Through: Mr. Siddharth Shankar Ray, Advocate.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **09.12.2016**

C.M. Appl. No. 45903/2016 (for exemption)

Exemption allowed, subject all to just exceptions.

The application stands disposed of.

W.P.(C) 11652/2016 and C.M. Appl. No. 45902/2016 (for stay)

1. Petitioner, by this writ petition, impugns the order of the Director of Education dated 4.11.2016 and which reads as under:-

“OFFICE OF THE DEPUTY DIRECTOR OF ZONE-28, DISTRICT CENTRAL
PLOT NO. 5, JHANDEWALAN, NEW DELHI

NO. D.D.E./Z-28/2016/1739

Dated:- 04/11/2016

To,

The Manager/HOS,
Salwan Boys Sr. Sec. School,
Rajinder Nagar, New Delhi.

Sub:- Proposal of Dismissal in r/o Sh. C.J. Joyson.
Sir/Madam,

Vide UO no. 8096 DE dated 19.10.2016 Directorate of Education has turned down the proposal of DAC which is being conveyed to you for further necessary action at your end:-

1. Fresh Inquiry may be conducted from the stage of appointing a new inquiry officer in place of Sh. S.K. Saraswat.
2. The suspension period of Sh. C.J. Joyson is not extended. He is entitled to join his duty in present school.

sd/-
DDE
ZONE-28"

2. The aforesaid cryptic order is clearly a non-speaking order. The order does not give reasons as to why the detailed enquiry report which is prepared running into about 44 pages, and which considers the evidence led by the respective parties, should be set aside and a new Enquiry Officer appointed and enquiry proceedings to commence *de novo*.

3. A Constitution Bench of the Supreme Court in the case of ***S.N. Mukherjee Vs. Union of India, (1990) 4 SCC 594*** has held that once *quasi judicial* powers are exercised, then the order which must be passed by the concerned statutory authority must be a speaking order giving reasons.

4. The impugned order dated 4.11.2016 falls foul of the ratio of the Constitution Bench judgment of the Supreme Court in the case of ***S.N. Mukherjee (supra)***.

5. In view of the above, this writ petition is allowed and disposed of by directing respondent nos. 1 and 2 to pass a speaking order giving reasons as to why the enquiry report dated 25.6.2016 be set aside, and such reasons must be within the parameters of law as to why enquiry proceedings have to be set aside or why the appointment of the Enquiry Officer was bad or why the detailed findings and conclusions arrived at by the Enquiry Officer after considering the evidence of the school as also the charged officer need to be set aside.

6. Speaking order be communicated to the petitioner within a period of four weeks from today. The Director of Education or his nominee, being the competent authority, will hear the petitioner before passing any speaking order.

7. The writ petition is accordingly allowed and disposed of in terms of the aforesaid observations setting aside the impugned order dated 4.11.2016.

VALMIKI J. MEHTA, J

DECEMBER 09, 2016

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