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

+ W.P.(C) 1023/2016 and CM No.4473/2016

ASTUTI THROUGH FATHER

DIPAK KUMAR

..... Petitioner

Through : Mr. Khagesh B. Jha, Adv.
along with Ms. Shikha
Bagga, petitioner in person.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through : Mr. Ramesh Singh, Standing
Counsel for GNCTD with
Ms. Nidhi Raman and
Mr. Sandeepan Pathak,
Advs.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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03.11.2017

1. This matter has been disposed of along with W.P.(C)No.3606/2017 on 30th October, 2017. Today this matter has been listed on our directions as two errors (*one in recording the year of the writ petition and the second in the appearance on behalf of the respondent*) were noticed in the said judgment dated 30th October, 2017.

2. It is accordingly directed that the judgment dated 30th October, 2017 shall read as follows :

“*IN THE HIGH COURT OF DELHI AT NEW
DELHI

% Date of decision : 30th October, 2017

+ **W.P.(C)No.1023/2016 & CM No.4473/2016**

ASTUTI THROUGH FATHER DIPAK KUMAR

..... Petitioner
Through : Mr. Khagesh Jha
and Ms. Slomita
Rai, Advs.

versus

GOVT OF NCT OF DELHI

..... Respondent
Through : Mr. Ramesh
Singh, Standing
Counsel for
GNCTD with
Ms. Nidhi
Raman and Mr.
Sandeepan
Pathak, Adv.

+ **W.P.(C) 3606/2017 & CM No.20652/2017**

JUSTICE FOR ALL

..... Petitioner
Through : Mr. Khagesh B.
Jha and Ms.
Slomita Rai,
Advs.

versus

GOVT OF NCT OF DELHI

..... Respondent
Through : Mr. Ramesh

Singh, Standing
Counsel for
GNCTD with
Mr. Sandeepan
Pathak, Adv.
Mr. Kamal
Gupta and Ms.
Tripti Gupta,
Advs. for R-2

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. Both these writ petitions lay a challenge to the notification dated 18th December, 2015 whereby the Directorate of Education of the Govt. Of NCT of Delhi has, in addition to the already prescribed minimum age limit for admission in pre-school, pre-primary and class 1, prescribed an upper age for admission to entry level classes. It may be noted that different prescriptions of upper ages have been made so far as differently-abled children are concerned.
2. The notification carefully provides for further relaxation so far as applications for children with mental disabilities are concerned. The care which has been taken is evident from the prescriptions that rejection of an application for admission to such a special child has to be based on valid grounds and a speaking order has to be passed by the Principal of the School. The notification of 18th December, 2015, has envisaged the opportunity of two appeals to the aggrieved parents of mentally disabled children to assail rejections.

3. We may note that when W.P.(C)No.3606/2017 first came up on 26th April, 2017, we had accepted the submission made by Mr. Peeyoosh Kalra, the then Additional Standing Counsel for the Government of NCT of Delhi and had passed the following directions as interim measures :

“14. Mr. Peeyoosh Kalra, ld. Additional Standing Counsel for the Government of NCT of Delhi, on instructions from Mr. Yogesh Pratap, Deputy Director (Education), GNCTD submits that without prejudice to the rights and contentions of all the parties; purely as an interim measure for this year alone and keeping in view the urgency in the requirement of ensuring education to those from the EWS/DG category, the Directorate of Education would be willing to issue an office order for raising the upper age admission in the EWS/DG category for each of the classes by one year. As a result, the age prescription to the classes would read as follows :

- (i) Nursery : 3 – 5 years*
- (ii) K.G. : 4 – 6 years*
- (iii) 1st Class : 5 – 7 years*

This is only so far as the admissions to the 25% EWS/DG quota in the private recognized schools.

15. The above submission made on behalf of the respondent no.1 is accepted. An office order in terms thereof shall be issued forthwith. The pending applications shall be immediately scrutinized, processed and admissions granted as per prescribed procedure in terms of Section 4 of the Right to Education Act.

16. So far as the remaining children are concerned, it is submitted by Mr. Peeyoosh Kalra, ld. Additional Standing Counsel for the Government of NCT of Delhi that their applications would be scrutinized in terms of paras 10 to 14 of the order dated 5th August, 2010 in W.P.(C)No.4953/2010, Kumari Uzma Bano & Anr. v.

Govt. of NCT of Delhi & Anr. These children will also be accommodated in government schools.

Let the same be so done.”

4. We may also note that keeping in view the importance of the issues flagged in the notification and the requirement of maximum age prescription at the entry age, on 26th April, 2017, we had also made the following observations :

“11. It is submitted by Mr. Kamal Gupta, ld. counsel for the respondent no.2 that an expert body constituted by the Government of NCT of Delhi has considered the matter and opined that it is unadvisable to accommodate over aged children in junior classes and such an action, if implemented, works to the disadvantage of and shall cause prejudice to the very child who is admitted in a class for which he or she is over aged.

Prima facie there appears to be substance in this contention.

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18. Given the nature of the grievance which have been pointed out by ld. counsel for the petitioner, the over age prescription made by the Government requires to be put in the public domain. The respondents are directed to ensure wide publicity of the opportunities available to the children for admission in the schools and all necessary information.

19. Given the fact that we have passed the order today, which is within the time stipulations of the respondent no.1, in case, the working of the order is delayed for any reason, the candidature of the children shall not be rejected on account of delay in processing the matter by the respondents.

20. Judicial notice needs to be taken that the member

of the society, who would be the beneficiary of the allocation of the 25% quota, may have transient residences or be prone to periodic shifting, the respondentno.1 needs to examine and put in place an education programme meeting the needs of such children who by conventional standards, may be over age or unable to maintain academic continuity on account of movement of their parents. This consideration be also placed before this court on the next date.”

5. We expect that the above directions have been complied with by the respondent.
6. We were informed that this notification was premised on a report of an expert body. We had accordingly so noted in our order dated 26th April, 2017 in W.P.(C)No.3606/2017.
7. So far as admissions which have been made pursuant to the interim orders passed by us are concerned, the same shall not be disturbed.
8. In view of the above, no further orders are warranted in these writ petitions.
9. In case, there is any difficulty in the working of the impugned notification or our order, liberty is given to the petitioner to file an application in these matters.
10. The writ petitions and all pending applications are disposed of in the above terms.

Dasti to parties.”

Dasti.

ACTING CHIEF JUSTICE

NOVEMBER 03, 2017/kr
W.P.(C) 1023/2016

C.HARI SHANKAR, J
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