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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 4601/2010

21st February, 2017

POONAM SHARMA AND ORS.

..... Petitioner

Through: Mr. Ravi Bassi, Advocate.

versus

LT. GOVERNOR AND ORS.

..... Respondents

Through: Mr. Ankur Chhiber, Advocate for R-1
and 2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. In this writ petition under Article 226 of the Constitution of India, though there are several prayers made, today only prayer (iv) is pressed for directions against the respondent nos. 3 and 4/school/employer to give the petitioners their full salary and service benefits.

2. Learned counsel for the petitioners pleads that petitioners are entitled to benefit of Section 10 of the Delhi School Education Act, 1973 for being granted salaries which are the same as the salaries of employees in government schools, and to which legal proposition there is no quarrel, however, before this Court grants the relief of a particular pay-scale, it has

first to be established by pleadings and documents of the petitioners that petitioners were getting what particular pay-scale and which is less than which particular pay-scale of similarly situated employees of government schools. There are no documents annexed to the writ petition as to what are the salaries which the petitioners were drawing and also that what are the salaries which petitioners claim of similarly placed persons such as the petitioners who are Assistant Teachers in government schools, and therefore, in the absence of pleadings and necessary supporting documentation, this Court cannot direct that the petitioners were in fact paid lesser salaries, what is the difference of salaries which the petitioners were entitled to, and so on.

3. I may also note that this writ petition even if allowed, will be a case of 'operation successful patient dead' because even if the reliefs are granted to the petitioners of a particular higher pay scale, such reliefs could only have been enforced against the employer/school, but admittedly the subject school being respondent no. 3/City Public (Co-Ed) Middle School, has been closed long back since around the year 2010. As per the law prevalent in Delhi on account of the Delhi School Education Act, 1973 every school is a separate legal entity being different than the society or the trust which runs the school, and the liability with respect to salaries etc of

employees is only of the school and not of the society or the trust which runs the school. Once the school therefore is closed since long obviously petitioners would not be able to get any effective relief.

4. In view of the fact that writ petition does not substantiate the factual aspects as to what salaries the petitioners are getting and as to the differences of salaries which the petitioners are entitled to on account of salaries payable to similar employees of government schools, hence in the absence of necessary pleadings and documentation, only by which certainty would have existed to pass a judgment, hence this writ petition is dismissed. The writ petition is disposed of accordingly.

FEBRUARY 21, 2017/ib

VALMIKI J. MEHTA, J