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

+ LPA 281/2017 & CM APPL. 14601/2017 (stay)

BINDU KHANNA Appellant
Through Appellant in person

versus

THE MANAGING COMMITTEE OF THE PINNACLE
SCHOOL & ANR Respondents

Through Mr. Ashok Chhabra, Advocate with
Mr. Mohit Sharma and Mr. Nikhil
Kanwal, Advocates for R-1
Mr. Gautam Narayan, ASC, with
Mr. R.A. Iyer, Advocate for
GNCTD/DOE

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K. GAUBA

ORDER

% **26.09.2017**

LPA 281/2017 & CM APPL. 14601/2017 (stay)

This appeal is directed against an order dated 13.02.2017 of the learned Single Judge.

The appellant is aggrieved by the fact that the learned Single Judge granted partial relief to the respondents, though of an interim nature, while permitting the deposit of entire arrears with an interest @ 5% per annum calculated in terms of the Directorate of Education's order only for the period of three years prior to filing of W.P. (C) 2742/2011.

The appellant contends that the order of the learned Single Judge was made in the course of proceedings, completely ignoring the previous order dated 27.05.2015, which had required deposit of entire arrears and directed compliance of the order of the Director of Education dated 05.05.2015 within six weeks besides imposing ₹50,000/- (Rupees Fifty Thousand Only) as costs.

The appellant also relies upon an order of the Division Bench dated 29.11.2016 in LPA No.276/2016 to say that the Division Bench did not interfere with the orders and the respondents-Management did not comply with the directions and rather without disclosing these orders of the Division Bench, misled the learned Single Judge to make the impugned order.

It is contended by Mr. Ashok Chhabra, learned counsel for the respondent-Management that the question of suppression of any fact does not arise because in the first instance the order of the Director of Education requiring deposit of arrears along with an interest @ 5% per annum was asked to be revisited after which, by an order dated 18.02.2015, the matter was remanded. Subsequently, on 05.05.2015 the Director of Education reiterated the orders to deposit the arrears within a time frame. It was contended that though the appeal against the orders of the learned Single Judge in contempt proceedings was declined, however, at the same time the Division Bench doubted the correctness of that order.

Learned counsel relied upon the following passage of the order of the Division Bench:-

“14. As is evident from the order under appeal, the learned Single Judge, neither decided an issue nor made
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any direction relating to the merits of the disputes between the parties, but merely directed implementation of the order dated 05.05.2015 passed by the Director of Education. It may be true that the order dated 05.05.2015 came to be passed pursuant to the directions in a later writ petition, i.e., W.P.(C) No.4059/2014. However, it is not correct to say that the earlier order dated 20-05.2014 in W.P.(C) No.3212/2014 has been rendered, redundant in view of the subsequent order dated 18.02.2015 in W.P.(C) No.4059/2014 and the consequential order passed by the Directorate of Education dated 05.05.2015. It is relevant to note that the learned Single Judge while passing the impugned directions had taken note of the subsequent order of the Director of Education dated 05.05.2015, which in fact had reiterated the earlier order dated 25.04.2014. Hence, the learned Single Judge was justified in directing implementation of the order dated 05.05.2015. The mere fact that the said order came to be passed in terms of the order in W.P.(C) No.4059/2014 in no way creates a bar to pass such an order in exercise of the contempt jurisdiction.”

It is contended that since the learned Single Judge on 25.08.2017 has modified the impugned order and required the respondent-Management to deposit the entire amount within eight weeks from 25.08.2017, it is stated that the requirement of having deposited only three years’ arrears from a particular date has been enlarged and the complete amount has been directed to be deposited within three weeks before the next date of hearing. It is stated that the eight weeks’ period granted would expire on 25.10.2017.

This Court has considered the submissions and it does appear that the respondent-Management has been less than charitable with the truth in the

pleadings, with respect to relevant facts in the previous proceedings having been disclosed. Furthermore, the Division Bench order did not set aside the directions of the learned Single Judge – which again, *prima facie*, appears to have escaped the notice of the learned Single Judge who made the impugned order on 13.02.2017. Whilst to some extent relief has been granted in the sense that a direction has been issued to the respondents to deposit the entire arrears with an interest @ 5% per annum within eight weeks from 25.08.2017, this Court is of the opinion that the learned Single Judge has to expeditiously dispose of the present petition especially having regard to the overall conspectus of the facts considering that the matter has prolonged unduly and the issue to be considered is a limited one.

In these circumstances, the parties are directed to be present before the learned Single Judge on 26th October, 2017. The learned Single Judge shall first satisfy himself as to the compliance with the order dated 25.08.2017 and thereafter proceed to hear the matter finally and dispose it of as expeditiously as convenient. The rights of the parties, especially that of the petitioner, to urge all contentions include the question of payment of interest for the period withheld, is kept open.

The appeal is disposed of in the above terms.

The parties shall cooperate in the final disposal of the writ petition and would not seek an adjournment.

S. RAVINDRA BHAT, J

R.K. GAUBA, J

SEPTEMBER 26, 2017

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