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

+ LPA 528/2016

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Judgment Pronounced on : 16th March, 2017

COORDINATION COMMITTEE OF PUBLIC SCHOOLS

.....Appellant

Through: Mr. Prashant Narang with Ms. Jyoti Narang,
Advocates.

Versus

DIRECTORATE OF EDUCATION & ORSRespondents

Through: Mr. Santosh Kumar Tripathi, ASC for
R-1/GNCTD.

Ms. Puja Kalra, Advocate for North MCD.

Mr. Siddharth Joshi with Ms. Perna Sinha,
Advocates for EDMC.

Mr. Anil Grover, Standing Counsel with
Ms. Kanika Singh, Asst. Standing Counsel,
Ms. Nupur Singhal & Mr. Rishi Vohra,
Advocates for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

1. The appeal is preferred against the judgment rendered by the learned Single Judge dated 29.04.2016 in W.P.(C) No. 3556/2016. The unsuccessful petitioner is the appellant before us.

2. The said writ petition was dismissed holding that as under:

"However, this Court is of the opinion that the land requirement as well as permission to allow private primary schools to run middle level classes in second

shift are a policy decisions and the Courts normally do not interfere with such decisions in writ jurisdiction.

As far as the plea with regard to equality is concerned, this Court is of the view that "Equality before the law" means that amongst equals the law should be equal and should be equally administered and that 'like' should be treated 'alike'. Consequently, what Article 14 of the Constitution forbids is discrimination between persons who are substantially in similar circumstances or conditions. Unequal treatment does not arise between persons governed by different conditions and different sets of circumstances. The rule is that 'like' should be treated 'alike' should be treated 'alike'.

Consequently, as the primary schools and the middle level schools are not alike, this Court is of the view that the present writ petition is bereft of merits and the same is dismissed accordingly."

3. We have heard learned counsel appearing for the parties and perused the material available on record.

4. It was the contention of the appellant that the circular dated 22.03.2013 issued by the Directorate of Education mandating minimum land requirement for recognition as a middle/elementary level school in Delhi is unreasonable and disproportionate. As per the impugned circular, the minimum requirement of land for a primary level school is 200 sq. yards whereas, the minimum area of land required for a middle/elementary level school has been increased to almost four times the size i.e. 700 sq. meters without any justification or reasonable study. The result of enforcing the impugned circular would imply that various private unaided schools running in unauthorised colonies in Delhi would

be forced to shut down, the consequences of which would have to be borne by the thousands of children studying in these schools.

5. To the contrary, learned counsel for the respondent submitted that the minimum land area to be possessed by middle/elementary level schools is based on the needs and requirements of the children studying in these schools at middle/elementary level because better equipment and facilities are required for overall development of these children.

6. At the outset, it is relevant to peruse the impugned circular dated 22.03.2013. It reads as under-

"1. Section 18 and Section 19 of the Right of Children to Free and Compulsory Education Act 2009 provide that no school be established or function, without obtaining a certificate of recognition and conforming to norms and standards specified in the scheme to the Act, within three years of the commencement of the Act.

2. Considering the fact there are number of unrecognized schools still functioning without obtaining the certificate of recognition, with a view to save the interest of the thousand of children studying in these schools, procedure for recognition in respect of unrecognized schools running upto Primary / Elementary level and existing and functioning on the date of commencement of the RTE Act, i.e. 01.04.2010 has been simplified.

3. Further, all such unrecognized schools, situated in unauthorized/undeveloped/regularized colonies, running classes up to the elementary level and possessing the following land area can apply for recognition:-

Sl. No.	Schools level	Minimum land area to be possessed by the School	Minimum Facility to be provided
01	U to primary level (i.e. class V)	200 Sq. Yards	(5 class rooms + other prescribed facilities

02	<i>Upto middle/ elementary level (i.e. class VIII)</i>	<i>700 Sq. Mtrs.</i>	<i>(8 class rooms+ other prescribed facilities)</i>
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4. *The schools situated in planned/developed colonies shall have to conform to land area norms as presently in force.*

5. *it has been further provided that the unrecognized schools shall also conform to the following conditions regarding room size play ground:-*

(i) The class room size of a primary school seeking recognition shall be minimum 30 sq. mtrs and in case of middle school shall be 40 sq. mtrs.

(ii) In case the class room size is less than 30 sq mtrs. or 40 sq. mtrs as the case may be, the number of student in the class shall be restricted in such a way as to provide for 10 Sq. feet area for each student after leaving 60 Sq. feet for teaching area

(iii) the schools which do not have the play ground shall make arrangements in the nearby municipal park and the onus of showing tie up with a play ground facility as well as arrangements for safe transport of the children to and from this park/ground shall lie with the school."

7. A perusal of the circular dated 22.03.2013 shows that the directions have been issued by the Directorate of Education in compliance with the Sections 18 and 19 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as "the Act"). A distinction has been drawn by the government between the children studying up to primary level i.e. class V and the children studying up to middle/elementary level i.e. class VIII. The distinction has been drawn on the basis of different needs and requirements of children studying at these two different levels.

6

8. Relevant provisions of the Act shows that a school cannot be allowed to function without obtaining a certificate of recognition or without conforming to the norms and standards mentioned in the Act or its schedules. It is clear that the norms and standards laid down are a pre-requisite for recognition or functioning of any school and such recognition is subject to be withdrawn if the conditions are not complied with.

9. Regulating minimum land area to be possessed by all schools running classes up to the elementary level is a policy decision of the Directorate of Education of the GNCTD keeping in mind the number of unrecognised schools functioning without obtaining a certificate of recognition, with a view to save the interests of the thousands of children studying in these schools. As per the settled principles of law, the Courts should be cautious while substituting its own views as to what is better, wise and prudent in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them.

10. The law is also well settled that Courts normally do not interfere with the policy decisions of the Government. Courts should be reluctant to act as Appellate Authorities to assess the correctness and suitability of a policy, nor are courts advisors to the executive on matters of policy which is solely a prerogative of the executive. Courts cannot interfere with policy matters either on the ground that it is erroneous or on the ground that a better or wiser alternative is available. The scope of judicial review while examining a policy of the Government is limited to the

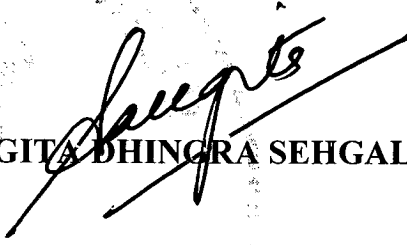
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extent to see whether it abridges the fundamental rights of the citizens or is opposed to the law of the land or is arbitrary *ab initio*. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review.

11. We, therefore, find no reason to interfere with the order under appeal.

12. Appeal, is accordingly dismissed.


CHIEF JUSTICE


SANGITA DHINGRA SEHGAL, J

MARCH 16, 2017