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

\+ LPA 494/2017 and CM APPL. 26204/2017 (stay)

SANSKRITI SCHOOL ..... Appellant

Through: Mr. Sidharth Luthra, Senior Advocate with Mr. Anshul Gupta, Ms. Gunjan Bansal, Mr. Gautam and Mr. Udit Arora, Advocates

versus

DIRECTORATE OF EDUCATION (ACT-I BRANCH) ..... Respondent

Through: Mr. Gautam Narayan and Mr. Naushad Ahmed Khan, ASCs, GNCTD

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **08.08.2017**

1. The appellant/School is aggrieved by the order dated 20.06.2017 passed by the learned Single Judge, rejecting its application for staying the orders dated 29.05.2017 and 20.10.2015 passed by the respondent/Directorate of Education.

2. In the impugned order, the learned Single Judge has observed that the communication dated 20.10.2015, which refers to the interim report of the Fee Hike Committee, was uploaded on the official website of the respondent/Directorate but the appellant/School did not seek any judicial remedy either against the recommendations made by the Fee Hike Committee or the orders dated 20.10.2015 and 29.05.2017. Opining that

having failed to take timely action, the appellant/School is not entitled to any interim relief, the stay application filed alongwith the writ petition came to be dismissed.

3. Mr. Luthra, learned Senior Advocate appearing for the appellant/School submits that the aspect of delay alone ought not to have weighed with the learned Single Judge as there were several other issues raised by the petitioner on merits while arguing the stay application for claiming entitlement to interim protection. It is submitted that vide order dated 11.02.2009, issued by the respondent/Directorate, all schools were directed to maintain a Depreciation Reserve Fund and subject to the same, the development fee not exceeding 15% of the total annual tuition fee, could be charged from the students. Learned counsel concedes that strictly speaking, the appellant/School did not maintain a separate account for depositing the Depreciation Reserve Fund, but states the said amount was duly reflected in the ledger accounts maintained for the years 2009-10 and 2010-11, as would be apparent on a perusal of Annexure A-8 (colly).

4. It is further stated that the petitioner/School is on a different footing inasmuch as unlike other School Managements that are running more than one school, in the present case, the appellant/Society is running only one school and therefore, the money collected under the head of development fee, has not been mis-utilized by diverting it for the development of some other branch of the school.

5. Having regard to the submissions made by learned counsel for the appellant, it is deemed appropriate to dispose of the present appeal with liberty granted to the appellant to file a fresh application before the learned Single Judge for seeking a stay of the impugned orders, by taking all the

pleas that may be available to it, including those recorded above. The respondent/Directorate shall also be at liberty to oppose the said application.

6. Counsel for the appellant/School states that an appropriate application shall be filed within two weeks from today. As and when the said application is filed, the learned Single Judge is requested to consider the same on merits and pass appropriate orders in accordance with law.

7. It is made clear that while passing the above order, we have not expressed an opinion on the merits of the case, which is left open for the consideration of the learned Single Judge.

8. The appeal is disposed of alongwith the pending application.

HIMA KOHLI, J

DEEPA SHARMA, J

AUGUST 08, 2017
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