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

+ W.P.(C) 11802/2015

SANJAY JAIN & ANR

..... Petitioners

Through

Mr. Prem Kumar Singh, Advocate

versus

DY. DIRECTOR OF EDUCATION & ORS

..... Respondents

Through

Mr. Devesh Singh, ASC (Civil),
GNCTD, with Ms. Neelam, Advocate
for R-1

Mr. Varun Nagrath and Mr. Karan
Nagrath, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.07.2017

W.P.(C) 11802/2015 & CM APPL. 34998/2016 (for amendment of writ petition)

1. The petitioners are parents of the deceased Master Varun. The grievance of the petitioners in the present petition arises from an unfortunate fatal accident that occurred on 24.01.2012 when petitioners' son, namely, Master Varun, fell from the second floor of his school building - M/s Rishabh Public School, Mayur Vihar, Phase-I (hereinafter referred to as 'the School'); he was fatally injured and succumbed at the spot itself.
2. The investigation revealed that the child fell from the railing of the corridor on the second floor of the School building.
3. The height of the railing was 3 feet 9 inches (3'9") and in normal

circumstances this would be sufficient safety measure for students against accidentally falling from the said corridor. However, the counsel for the petitioner points out that the said railing consisted of two parts; the lower part of was made of bricks and cement with a height of 1'9". The iron grill railing, which was the upper part, was affixed on the cemented portion. The height of the iron grill was only 2 feet. This possibly enabled the child to climb on the bricks and cemented portion of the railing and look down on the ground below.

4. Since the height of the iron grill railing was only 2 feet, it did not offer sufficient protection for any child stepping up on the cemented portion on which the railing was fixed.

5. The School has realised this and has taken the added measure of increasing the height of the iron grill of the railing and photographs indicating so have been placed on record.

6. There is much merit in the petitioners' contentions that an added effort must be made to make every school building safe and it would be necessary to anticipate the actions of the children. "Children will be children" and what is safe for adults may not be safe for children. However, in the present case, this Court is not persuaded to accept that this is a case where the School has been grossly negligent. Undeniably, there is always a scope for making a building safer, however that cannot lead to the conclusion that the School in question has been negligent.

7. In the given facts, this Court is not persuaded to accept the petitioners' prayer for compensation. However, as far as the petitioners' prayer that

directions be issued to the Directorate of Education to ensure that certain safety measures/features for school buildings must be prescribed, is concerned, this Court finds much merit in that contention.

8. It is directed that the Directorate of Education specify the key requirements and features that must be included in a school building for ensuring the safety of children in the schools. It would be apposite if respondent no.1 constitutes a Committee (including experts in construction) to examine the safety measures required to be incorporated in school buildings and to frame a set of guidelines/rules for schools to comply with for the safety of children.

9. Respondent no.1 will also ensure that adequate steps are taken to comply with such guidelines.

10. The present petition and the application are disposed of with the aforesaid directions.

VIBHU BAKHRU, J

JULY 18, 2017

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