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

+ **W.P.(C) 3770/2018**

SHARDHA KATYAL & ANR

..... Petitioners

Through: Mr. P.K. Malik & Mr. Meena, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ORS Respondents

Through: Mr. Rajiv Bansal, Sr. Advocate with
Mr. Tushar Gupta, Ms. Kamna Singh, Ms. Paul &
Mr. Shubham Goel, Advs. for DDA

Ms. Mini Pushkarna, Standing Counsel with
Ms. Swagata Bhuyan & Ms. Shiva Pandey &
Ms. Neha Goel, Advs. for R-2

Mr. Nilava Bandyopadhyay, Ms. Vijaya Singh and
Ms. Anjani Soni, Advs. for R-3 & R-4

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **06.12.2018**

1. Petitioners have filed this writ petition and the prayer made in the writ petition reads as under:

"I. This Hon'ble Court be pleased to direct respondents no.1 i.e. DDA to get shift the existing Dayanand Public School Model Town to senior secondary school at HS-3A Institutional Area, Model Town (North Ex.) Delhi to Arya Samaj Model Town Delhi in terms of allotment letter dt.03.02.2000 Annexure P-1.

II. This Hon'ble Court pleased to issue an appropriate writ, order or direction (including a writ of mandamus) while commanding the respondent no.2 & 3 to continue the fees structure of Dayanand Public School Model Town in the new school.

III. To grant any other further or alternative writ directions or order as this Hon'ble court may deem fit in this facts and circumstances of the case."

2. A preliminary objection is raised to say that earlier making identical prayer petitioners had filed W.P.(C) 8028/2017 Sharda Katyal & Anr. vs. Delhi Development Authority & Ors. and by an order passed on 11.09.2017, the petitioner withdrew the writ petition unconditionally without any liberty and once the petition is dismissed, a second petition on the same issue at the instance of the petitioners is not maintainable. That apart, it is pointed out that with regard to the same issue in question pertaining to transfer of interest in the land at Arya Samaj Model Town and the same school, another public interest litigation W.P.(C) 2088/2013 Masood Alam vs. DDA & Ors. was filed and the said writ petition was also dismissed by a coordinate Division Bench of this Court on 23.10.2013. In the said case apart from the issue of transfer of interest in the land even the question of fee structure was challenged which was dismissed by the Court. Accordingly, it is stated that in view of both these orders passed in the previous writ petitions namely W.P.(C) 2088/2013 and W.P.(C) 8028/2017 this petition is not maintainable.

3. Having heard the learned counsel for the parties on this issue and on comparison of the prayer made in the present writ petition with the prayer made by the petitioners herein in the earlier W.P.(C) 8028/2017 and comparing the pleadings thereof, we find that the averments made in pars 12, 13, 2, 3, 4, 7, 8, 10, 11, 17, 18, 19, 6, 20, 21 and 22 of the present petition is exactly similar and identical to the averments made in the paras 2, 3, 4, 5, 7 to 9, 10, 11, 13, 14, 16, 17, 18, 19, 20 and 21 of the earlier writ

petition bearing W.P.(C) No.8028/2017. Once the earlier writ petition filed by the petitioners i.e. W.P.(C) 8028/2017 on identical prayer and the pleadings have been dismissed as withdrawn, subsequent writ petition on the same ground is not maintainable. That apart, an identical public interest litigation by one Masood Alam having also been dismissed, we are not inclined to interfere in the matter.

4. In view of the aforesaid observations, the preliminary objection is upheld and the writ petition is dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 06, 2018/*ns*