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

+ **W.P.(C) 10314/2018**

DAV PUBLIC SCHOOL SRESHTHA VIHAR Petitioner

Through **Mr. Sandeep Sethi, Senior Advocate
along with Mr. Anurag Lakhotia,
Advocate.**

versus

DIRECTORATE OF EDUCATION Respondent

Through **Mr. Ramesh Singh, Standing Counsel
with Mr. Satnosh Kr. Tripathi, ASC
and Mr. Chirayu Jain, Mr. Shashank
S. Tiwari and Mr. Rishabh Ostwal,
Advocates.**

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

% 28.09.2018

The present petition under Article 226 of the Constitution of India, has been instituted on behalf of the petitioner School, praying as follows:-

- a) *“Set aside the order notification dated 13-04-2018 of the Directorate of Education **ANNEXURE A**,*
- b) *Set aside the order dated 13.10.2017 of the directorate of education allowing only 5% fee hike for the session 2016-17, whereas the recommendation by the auditors was of as per the budget of the school i.e. 10% **ANNEXURE B**,*
- c) *Direct the Directorate of Education to approve the proposal for fee hike made by the school on 14-06-2017 and 15-12-2017 for the session 2017-18, The proposal is **ANNEXURE C AND ANNEXURE C-1**,*
- d) *Direct the Directorate of Education to approve the proposal for fee hike made by the school on 31-05-2018 for the session 2018-19, the proposal is **ANNEXURE D**,*
- e) *Direct the Directorate of Education to create a mechanism that the decision on the Fee hike proposal be made by the Directorate of Education before the initiation of new session*

and further the sole criteria to decide upon the said fee hike proposals should be “Non profiteering” and as per the Ratio of the Decisions of Hon’ble Supreme Court in the matter of “TMA Pai Vs. State of Karnataka and Ors, (2002) 6 SCC 481”, “Modern School vs. Union of India (2004) 5 SCC 583”, “P.A. Inamdar&Ors. v. State of Maharashtra (2005) 6 SCC 537”.

- f) Direction be issued allowing the school to raise its Tuition fees forthwith by the tune of 32%, as the total Fees received by the school under any head is less by the 32% than the salary to be paid by the school to the staff and further the school is not left with any money in any reserves also. r.*
- g) Direct the Ld. Directorate of education not to take any adverse action against the school for taking Enhanced Fee from the parents and take back its show cause notices in this regard.*
- h) Pass any other or further order which this Hon’ble Court may deem just and equitable in the facts and circumstances of the case.”*

Issue notice.

Mr. Ramesh Singh, learned Standing Counsel, accepts notice on behalf of the Directorate of Education.

A perusal of the order No. DE.15(318)/PSB/2016/23840-23847, dated 13th April, 2018, issued by the Government of NCT of Delhi, impugned in the present proceedings reflects that, an interim increase permitted, vide the official respondent’s communication dated 17th October, 2017, 3rd November, 2017 & 20th November, 2017, to Schools, who have been allotted land by the Delhi Development Authority/L&DO/Any Govt. Agencies, has been withdrawn thereby with the retrospective effect.

Insofar as, the above direction is concerned, the same was predicated on the orders passed by a Division Bench of this Court on 20th December, 2017, in W.P.(C) No. 11265/2017, titled as “Miss Taru Chauhan Through Father Nitim Kumar Chauhan & Ors. vs. Govt. of NCT of Delhi & Ors.”; and on 1st February, 2018, in W.P.(C) 11265/2017, titled as “Miss Tarun

Chauhan Through Father Nitim Kumar Chauhan & Ors. vs. Govt. of NCT of Delhi & Ors.”.

The impugned order, however, permits online proposals to be made by such schools to the official respondents for increase in fee for the academic session 2017-2018, which are to be determined by the official respondents, in accordance with law, after examining the financial accounts of these schools.

Having heard learned counsel appearing on behalf of the parties, the present petition is disposed of with the following consent order:-

The online proposals made on behalf of the Schools for fee hike on 14th June, 2017 and 15th December, 2017, for the academic session 2017-2018, shall be decided, in accordance with law, by the Directorate of Education, within a period of two weeks from today, under intimation to the petitioner School.

The Directorate of Education shall also determine, the petitioner school's proposal for fee hike dated 31st May, 2018, for the academic session 2018-2019, within a period of four weeks thereafter, in accordance with law.

Needless to state that if the Directorate of Education requires any further material from the petitioner School, they shall communicate to the latter, the requirements, within two working days from today.

In view of the foregoing, Mr. Sandeep Sethi, learned Senior Counsel appearing on behalf of the petitioner, on instructions, does not press the other prayers sought for in these proceedings, at this stage.

With the above directions, the writ petition is disposed of.

Dasti under signature of the Court Master to learned counsel for the parties.

SEPTEMBER 28, 2018
RS

SIDDHARTH MRIDUL, J