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

+ **LPA 44/2019**

DIRECTOR OF EDUCATION & ORS .... Appellants

Through: Mr. Naushad Ahamad Khan,  
Mr. Zahid & Mr. Tauheed Arshi, Advocates

versus

BALE RAM

..... Respondent

Through: None

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE SANJEEV NARULA**

**ORDER**

% **30.01.2019**

**CM Appl.No. 2971/2019 (Exemption)**

1. Exemption allowed, subject to all just exceptions.

**CM Appl.No. 2970/2019 (Delay)**

2. For the reason stated in the application, the delay of 75 days in filing the appeal is condoned and the application is disposed of.

**LPA No. 44/2019 & CM Appl.No. 2972/2019 (stay)**

3. The present appeal is against the judgment dated 5<sup>th</sup> September, 2018 passed by the learned Single Judge in WP(C) No. 2178/2016 filed by the Respondent.

4. The reliefs granted by the learned Single Judge to the Respondent read as under:

“34. As a result, the interest of justice, in the present case, would, in my opinion, be met, if the following directions are

issued:

- (i) In case there exists, in the respondent-School-, any vacant full-time Group D/Class IV post, the petitioner would be entitled to be regularised, against the said post, forthwith. This exercise should be carried out and completed within one week from the date of receipt, by the respondents, of a certified copy of this judgement.
- (ii) In case no such regular Vacant Group D/Class IV post exists, at present, in the respondent-School, the petitioner would be entitled to be regularised against the next available Group D/Class IV post, in preference to any other candidate,

35. The prayer, of the petitioner, for regularisation against a vacancy in any other school, is rejected.

36. While issuing the above directions, I am conscious of the fact that the prayer, in the writ petition, is not to direct the regularisation of the petitioner, but to direct the respondents to consider the petitioner for regularisation. The correspondences and communications referred to in paras 17 to 19 hereinabove, however, disclose that considerable consideration, if one may use the expression, has already been bestowed, on the case of the petitioner, which, despite being favourably viewed by all authorities, is being shunted from table to table for no obvious reason, other than governmental red-tape. Besides, the right of the petitioner to regularisation already stands recognised, albeit in respect of other part-time water-women, in *Saroj Devi (supra)*. Following the said decision, I am of the view that, in order to bring the litigation to a close - at least for now - it would be more appropriate to direct regularisation of the petitioner, rather than throw the ball once again, in the court of the respondents.

37. The writ petition, accordingly, stands allowed, to the extent indicated in para 31 (*supra*), with no order as to costs.

5. The anxiety of the Appellant is in relation to the direction in para 34(ii) above. It is submitted that the school is a taken-over one and the strength of students has never exceeded 150. It is therefore contended that at present there is no vacant full time Group-D (class-IV) post.

6. The direction is only to the effect that in case no such post exists at present, the Respondent herein would be entitled to be regularised “against the next available Group D/Class IV” post in preference to other post. The Court sees no difficulty as far as the above direction is concerned. In the event that any vacancy is available in the future, the Respondent is only required to be considered for regularisation against such post.

7. The above directions do not call for any interference. The appeal is dismissed.

**S. MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**JANUARY 30, 2019**

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