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

+ **LPA 29/2019**

GURU NANAK PUBLIC SCHOOL Appellant

Through: Mr. Sushil and Mr. Dhruvpal,
Advocates.

versus

GOVT OF NCT DELHI & ANR. Respondents

Through: Mr. Saurabh Chadda, Advocate with
Respondent in Person.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **18.01.2019**

CM APPL. 2082/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.

LPA 29/2019 & CM APPL. 2081/2019

2. The appeal is directed against an order dated 4th December 2013 passed by the learned Single Judge dismissing the Appellant's W.P.(C) 13101/2018. In the said writ petition, the Appellant challenged an order dated 17th July 2018 passed by the Delhi School Tribunal ('the Tribunal') setting aside the order removing the Respondent No. 1 from service as Teacher in the Appellant school and directing that a fresh inquiry consistent with the requirement of Delhi School Education Act and Rules (DSEAR) should be conducted afresh.

3. It was pleaded before the Tribunal by the Appellant School that it was an unaided minority institution and, therefore the DSEAR would not apply. The Tribunal held that the Appellant was unable to prove its minority status by producing the necessary documentation.

4. In any event, even if the Appellant were to be considered to be an unaided minority institution, in view of the decision of the Full Bench of this Court dated 14th May 2015 in W.P.(C) 8058/2011 (***Guruharkishan Public School v. Director of Education***), the DSEAR would still apply to the Appellant school. The counsel for the Appellant informs the Court that a special leave petition (SLP) has been filed against the said judgment before the Supreme Court, however, no stay has been granted. Having heard learned counsel for the Appellant, the Court is not inclined to interfere with the order of the Tribunal, which has been upheld by the learned Single Judge directing that a fresh inquiry should be held.

5. Learned counsel for the Appellant then pointed out that an application has been filed before the learned Single Judge for a clarification on whether the Respondent would be reinstated as a Teacher during the course of the Inquiry or whether the Appellant would be placed under suspension during the inquiry. This application was dismissed by the learned Single Judge on 21st December 2018.

6. The suspension of a person facing disciplinary proceedings under is not automatic. In the present case, the services of Respondent No. 2 were dispensed with way back on 1st April 1993 without an inquiry and at this

point in time, the question of her being placed on suspension after reinstatement pursuant to the order of Tribunal does not arise. It will be in the interests of justice for the Appellant to ensure that the inquiry is conducted as expeditiously as possible.

7. There is already a time bound directions issued by the Tribunal for deciding the issue of the entitlement of the Respondent No. 2 to back wages. The Appellant will take a decision in that behalf not later than four weeks from today.

8. The appeal is accordingly dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 18, 2019

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