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

+ LPA 754/2019, CAV 1176/2019 & CM APPL. 51517-51521/2019

DIRECTORATE OF EDUCATION

..... Appellant

Through: Ramesh Singh, GNCTD, Mr. Santosh
Kr. Tripathi ASc, Mr. Chiraty Jain &
Mr. Ishan Agarwal Advocates

versus

N K BAGRODIA PUBLIC SCHOOL, DWARKA Respondent

Through: Mr. Sunil Gupta, Senior Advocate
Mr. Kamal Gupta, Mr. Nipun Gupta
Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **29.11.2019**

1. The appellant/Director of Education (DoE) is aggrieved by the order dated 13.09.2019, passed in W.P.(C) 9913/2019 filed by the respondent/school praying *inter alia*, for quashing the order dated 27.08.2019, passed by the DoE whereunder, a decision has been taken to withdraw the recognition of the respondent/school with effect from 01.04.2020, with further directions that the school shall not make any fresh admissions for the academic session 2020-2021.

2. By the impugned order while issuing notice to the Directorate of Education, operation of the order dated 27.08.2019 has been stayed by the learned Single Judge with a direction that the school will maintain the accounts with regard to the fee hike and it would be bound by the final

outcome of the writ petition. It has also been directed that there shall be no further enhancement of the fee till further orders. With these directions, the writ petition has been adjourned to 12.12.2019.

3. Mr. Ramesh Singh, learned Standing Counsel (Civil), GNCTD submits that vide resolution dated 25.03.2019, the respondent/school proceeded to enhance the fee of the students effective from 01.04.2019, without seeking prior permission from the appellant/DoE, as per the mandate of the Supreme Court in Modern School v .Union of India reported as **(2004) 5 SCC 583**, particularly when the respondent/school is a “Land Clause School”, which means that the school land was granted by the DDA as the land owning agency on particular terms and conditions of allotment. It is submitted that vide order dated 27.03.2019 issued by the Directorate of Education, all the private recognized, unaided schools covered by the “Land Clause” were required to seek prior sanction for increase in fee and for this purpose, submit their proposal for the academic session 2018-19 & 2019-20 online through the website of the Directorate of Education, latest by 30.04.2019.

4. Mr. Ramesh Singh submits that instead of submitting the proposal online, the respondent/school elected to submit a hard copy of the proposal on 29.03.2019 which was returned by the Department on the very next day with an endorsement that the same ought to be uploaded online. However, without uploading the proposal as mandated in the order dated 27.03.2019, the respondent/school proceeded to pass a resolution on 25.03.2019, hiking the tuition fee effective from 01.04.2019, whereas the online proposal was uploaded by it after over a month, on 30.04.2019.

5. Mr. Gupta, learned Senior Advocate appearing on behalf of the

respondent/school vehemently disputes the submissions made by learned counsel for the appellant and states that the offline proposal for enhancement of the tuition fee submitted by the school under Section 17(3) of the Delhi School Education Act and Rules, 1973 is dated 29.03.2019 and it was deposited in the office of the Directorate of Education at Najafgarh and was never returned by the Department, as is apparent from the fact that there is no endorsement of a receipt on the document, in the hands of any representative of the school. He states that in any case, the respondent/school had uploaded the proposal before the cut off date fixed i.e. before 30.04.2019, in addition to sending a physical copy in advance. It is his submission that the respondent/school is entitled to enhance the tuition fee in terms of the judgment of the learned Single Judge dated 15.03.2019, passed in **W.P.(C) 4374/2018** titled Action Committee unaided Recognized Private Schools v. Directorate of Education & Anr..

6. Mr. Gupta further submits that the said judgment is a subject matter of an appeal before the Division Bench (LPA No. 230/2019) but it has not been stayed in entirety. Instead, the limited stay granted by the Division Bench vide order dated 03.04.2019, was that none of the “Land Clause schools” will proceed to collect amounts constituting an interim fee hike, in terms of the Circular dated 17.10.2017, issued by the Department of Education. It is thus the stand of the respondent/school that the proposal is required to be submitted by every school on an annual basis and therefore, the stay order referred to above, cannot be relied on by the appellant/DoE to contend that the respondent/school is restrained from hiking the school fee on an annual basis.

7. On enquiring from learned counsel for the respondent/school as to

whether after the enhancement of the tuition fee, the entire enhanced amount has been collected from the students, we are informed that the school fee is collected on a quarterly basis, though the enhancement of fee ordered by the school is good for the academic year 2019-2020, which will end on 30.03.2020. In other words, the respondent/school has collected the enhanced fee for three quarters of the year, thus leaving the last quarter, between January, 2020 to March, 2020.

8. Having regard to the fact that the learned Single Judge has listed the writ petition for hearing on 12.12.2019, till then, the respondent/school is directed not to collect the enhanced component of the tuition fee for the last quarter of the academic year 2019-2020. Further, taking note of the grievance of the respondent/school that the appellant/DoE has so far not taken a decision on its proposal that has been hanging fire for the past 7 months and in view of the submission of Mr. Ramesh Singh, learned Standing Counsel (Civil), GNCTD, who states that the delay is on account of repeated requests made by the respondent/school for permission to submit additional documents, the last one dated 23.11.2019, now that it is stated that the respondent/school does not wish to submit any further documents, an order shall be passed by the DoE on the proposal of the respondent/school within one week from today, under intimation to the school.

9. While binding the appellant/DoE to the aforesaid assurance and contemporaneously restraining the respondent/school in terms of the order passed herein above, the present appeal is disposed of alongwith the caveat and the applications.

10. Leave is however granted to the respondent/school to approach the

learned Single Judge to seek modification/recall of the order passed above, on the aspect of collecting the enhanced fee from the students for the last quarter of the academic year 2019-2020.

(HIMA KOHLI)
JUDGE

(ASHA MENON)
JUDGE

NOVEMBER 29, 2019
Hk/s