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

Date of Decision: 20th November, 2019

+ W.P.(C) 5446/2018

SOCIAL JURIST, A CIVIL RIGHTS GROUP Petitioner

Through: Mr.Ashok Agarwal, Adv. with
Mr.Kumar Utkarsh, Adv.

Versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Ramesh Singh, Standing Counsel
with Mr.Chirayu Jain, Ms.Nikita Goyal, Advs. for
GNCTD.

Ms.Monika Arora, Adv. with Mr.Kushal Kumar,
Adv. for North DMC.

Mr.Anil Panwar, Adv. with Mr.Rahul Singh, Adv.
For R-3.

Mr.G.D.Mishra, Standing Counsel for R-4/EDMC.

Mr.Sunil Gupta, Sr. Adv. with Mr.Kamal Gupta,
Mr.Yudhishter Kaushik, Advs. for R-5.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, Chief Justice (Oral)

1. This Public Interest Litigation has been preferred with the following prayers:

“i. direct Respondents to undertake all such measures to ensure implementation of the 7th Pay Commission recommendations qua over 2 lakh teaching and non-teaching employees of nearly 2000 Unaided Private Schools of Delhi in order to bring their pay, allowances and other benefits in conformity with and not less than the pay, allowances and other benefits of the employees of corresponding status in

Government and MCD schools in adherence to Section 10(1) of the DSE Act; and

ii. direct Respondents No. 1 to 4 authorities to take appropriate action in accordance with the provisions of DSE Act, against the erring Unaided Private Schools for violation of Section 10(1) of the DSE Act; and

iii. pass any such other or further orders or direction as this Hon'ble Court may in the facts and circumstances of the present case deem fit and appropriate, in favor of the beneficiaries whose cause is espoused by the Petitioner and against the Respondents; and

iv. allow the present PIL with cost in favour of the Petitioner.”

2. Having heard the counsel for both sides and looking at the facts and circumstances of the case, it appears that this petitioner is in search of implementation of the 7th Pay Commission recommendations for the teaching and non-teaching employees of the unaided Private Schools of Delhi.

3. Learned counsel for the petitioner submitted that 7th Pay Commission recommendations ought to be implemented by the unaided Private Schools of Delhi under Section 10 of Delhi School Education Act, 1973 (hereinafter called the Act, 1973). It is further submitted by the counsel for the petitioner that the issue of increase in the fees has nothing to do with the obligation to make the payment of salary as per 7th Pay Commission recommendations to the teaching as well as non-teaching staff of the unaided Private Schools of Delhi.

4. Learned counsel appearing for the respondent No.1 - Government of NCT of Delhi submitted that a circular regarding payment of salary as per

7th Pay Commission recommendations dated 25th August, 2017 has already been issued. They are seeking compliance from approximately 1766 unaided Private Schools of Delhi. The inspection of 1415 schools has also been carried out in the eight Districts. Moreover, show cause notices have also been issued by respondent No.1 to over 300 unaided Private Schools and it has been mentioned in the said show cause notices that action under Section 24 of the Delhi School Education Act, 1973, which provide for de-recognition and/or taking over the management, will be initiated for non-compliance.

5. It is further submitted by the counsel for respondent No.1 that after issuance of notices by respondent No.1, few schools have already complied with implementation of the 7th Pay Commission recommendations. There still remain some schools which are yet to implement the 7th Pay Commission recommendations. Thus, it is submitted by learned counsel for the respondent No.1 that they have already initiated action against such schools for not implementing the 7th Pay Commission recommendations for teaching and non-teaching employees.

6. We have also heard the counsel appearing for North Delhi Municipal Corporation i.e. respondent No.2. Counsel appearing for respondent No.2 submitted that there are approximately 117 unaided recognised Private Schools falling in the area under North Delhi Municipal Corporation of Delhi. Notices for the implementation of the 7th Pay Commission recommendations have already been issued and actions will be initiated in accordance with law if the directions are not complied with.

7. We have also heard the learned Senior Counsel appearing for

respondent No.5 i.e. Action Committee Unaided Recognized Private Schools. Learned Senior Counsel appearing for respondent No.5 has submitted that the obligation under Section 10 of the Act, 1973 cannot be complied with unless the rights of the schools enumerated under Section 17 of the Act, 1973 is allowed to be availed. Unaided Private Schools are not given any financial assistance by the Government. Out of the fees generated, not only salaries are to be paid but also other expenditures including maintenance of infrastructure are to be met. By virtue of the 7th Pay Commission recommendations the effect of increase in the salaries comes to approximately 25% which consequently requires rise in the fee structure as per the Act, 1973 especially, under Section 17 thereof. It is further submitted by the learned senior counsel appearing for respondent No.5 that time and again the unaided Private Schools have requested the Government of NCT of Delhi to permit them to increase their fee structure. However, the same is not being permitted by the Government of NCT of Delhi and instead several Circulars, Letters and Orders have been issued for strict implementation of 7th Pay Commission recommendations by the Government of NCT of Delhi. Consequently, all such Orders, Letters and Circulars have generated several litigations in this Court. A long list of writ petitions filed in this Court has been given by the learned senior counsel for respondent No.5 which read as under:-

1.	5986/2019	Brilliant Convent v. DoE
2.	3323/2019	Bal Bharti Public School, Pitampura v. DoE
3.	4168/2019	Arwachin Bharti Bhavan v. DoE
4.	4178/2019	Lancer Convent v. DoE
5.	4179/2019	Bharat National Public School v. DoE
6.	4966/2019	Chinmaya Vidyalaya v. DoE
7.	3854/2019	K.R. Mangalam v. DoE
8.	3855/2019	St. Margaret v. DoE
9.	3847/2019	G.D. Goenka v. DoE

10.	4576/2019	Modern Convent v. DoE
11.	3853/2019	Venkateshwara Global v. DoE
12.	4581/2019	Ramakrishna School v. DoE
13.	3848/2019	Red Roses v. DoE
14.	5295/2019	Vivekanand Public School v. DoE
15.	5309/2019	Gyandeep Vidya Bhawan v. DoE
16.	5820/2019	Vishal Bharti School v. DoE
17.	5858/2019	Venkateshwara International School v. DoE
18.	5868/2019	G.D. Goenka School v. DoE
19.	5870/2019	Pragati Public School v. DoE
20.	5873/2019	Greenfields Public School v. DoE
21.	6000/2019	Rukmani Devi Public School v. DoE
22.	6020/2019	The Srijan School v. DoE
23.	6156/2019	Titiksha Public School v. DoE
24.	6161/2019	Bhai Parmanand School v. DoE
25.	6541/2019	MAMS, Pitampura v. DoE
26.	6670/2019	Mount Abu Public School v. DoE
27.	6673/2019	Rishabh Public School v. DoE
28.	6684/2019	Delhi International School v. DoE
29.	6707/2019	Evergreen Public School v. DoE
30.	1488/2019	Birla Vidya Niketan v. DoE
31.	1464/2019	N.K. Bagrodia Public School v. DoE
32.	3034/2019	Sadhu Vaswani International v. DoE
33.	3041/2019	Maharaja Agrasen Public School v. DoE
34.	7724/2019	Vidhya Bharti School v. DoE
35.	8231/2019	Delhi International, Dwarka v. DoE
36.	10129/2019	Deep Public School v. DoE
37.	10130/2019	M.M. Public School v. DoE
38.	10135/2019	Poorna Prajna Public School v. DoE
39.	10136/2019	M.M. Public School v. DoE
40.	11221/2019	Maxfort School, Pitampura
41.	11275/2019	Maxfort School, Rohini
42.	6419/2019	Lilawati Vidya Mandir
43.	9917/2019	Modern Era Convent School v. DoE
44.	9923/2019	Greenway Modern Sr. Sec. School v. DoE
45.	351/2019	DAV Model School v. DoE
46.	696/2019	Bal Bharati Public School v. DoE
47.	1144/2019	Ravindra Public School v. DoE
48.	4636/2019	New Green Field School v. DoE
49.	6225/2019	New Green Field School v. DoE
50.	7249/2019	Cambridge Foundation School v. DoE
51.	8073/2019	Darbari Lal DAV Model School v. DoE
52.	8462/2019	St. Froebel Senior Sec. School v. DoE
53.	8559/2019	Shaheed Rajpal Dav PS v. DoE

54.	9122/2019	Bhatnagar International School v. DoE
55.	2667/2019	St. Cecilia's Public School v. DoE
56.	2745/2019	Adarsh Public School v. DoE
57.	3988/2019	Mamta Modern Sr. Sec School v. DoE
58.	4010/2019	Bloom Public School v. DoE
59.	4623/2019	Shah International School v. DoE
60.	4639/2019	Kamal Public School v. DoE
61.	4651/2019	St. Peter's Convent School v. DoE
62.	4659/2019	Columbia Foundation Sr. Sec. School v. DoE
63.	5982/2019	Apeejay School, Saket v. DoE
64.	6358/2019	Apeejay School v. DoE
65.	6543/2019	Masonic Public School v. DoE
66.	6664/2019	Sachdeva Public School v. DoE
67.	11412/2019	Sumermal Jain School v. DoE

8. All the above-mentioned writ petitions are pending consideration in this Court. On one hand the Government of NCT of Delhi is not allowing the increase in the fee structure which is permitted by the law i.e. under the Act, 1973, and on the other hand insisting on the implementation of the 7th Pay Commission recommendations. It is further submitted by the learned senior counsel for respondent No.5 that this writ petition may not be entertained by this Court in the light of the aforementioned pending writ petitions. Moreover, teaching and non-teaching staff are capable enough to approach to the Court and hence Public Interest Litigation is not tenable in law. It is further submitted by the learned senior counsel for respondent No.5 that there are several other arguments that vest with them but as the aforesaid writ petitions are pending and the interim orders have already been passed to the effect that no coercive action shall be initiated against the unaided Private Schools, respondent No.5 is not going further into the detailed aspects of the law. Suffice it to say that this PIL is not tenable in law because the teaching and non-teaching staff of any unaided private school can always approach this Court in their individual capacity if

aggrieved by the non-implementation of the 7th Pay commission recommendations.

9. Having heard the counsel for both sides and looking to the legal obligation of the schools under Section 10 of the Act, 1973 as well as the rights of the schools under Section 17 of the Act, 1973 and taking note of the interim orders passed by this Court in several afore-mentioned litigations and also looking to the fact that any person who belongs to the teaching or non-teaching staff in unaided Private Schools of Delhi is always at liberty to approach this Court in individual capacity in accordance with law, we see no reason to entertain this Public Interest Litigation. As and when any aggrieved individual approaches this Court, the decision can be taken in accordance with law, rules, regulations and Government policy applicable to the facts of that case.

10. In view of the aforesaid observations, this writ petition is, therefore, dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

NOVEMBER 20, 2019

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