

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on :03.07.2019

Date of decision:09.07.2019

W.P.(C) 12950/2018 & CM APPL. 50240/2018

NAV DURGA ADARSH VIDHALAYA Petitioner

Through Mr. Sanjay Gupta, Advocate

versus

DIRECTORATE OF EDUCATION Respondent

Through: Mr. Naushad Ahmed Khan,
ASC (Civil) GNCTD.
Dr. M.P. Singh, DEO, Zone-13
along with Mr. Arvind Kr. Dte.
of Education, GNCTD.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

CM APPL. 50240/2018 (Exemption)

Exemption allowed, subject to just exceptions.

The application stands disposed of.

W.P.(C) 12950/2018

1. Vide the present W.P.(C)12950/2018, the petitioner Nav Durga Adarsh Vidhalaya seeks the grant of a writ directing the respondent to cancel the withdrawal of recognition of the petitioner's school by setting aside the order of the Hon'ble Lieutenant Governor dated

17.10.2018 and also seeks the setting aside of the order dated 07.08.2018 of the respondent/ Directorate of Education of Govt. of NCT of Delhi.

2. The respondent having been served, put in appearance and has submitted its reply to which the rejoinder was also submitted by the petitioner. Submissions were made on behalf of either side by their learned counsel.

3. The petitioner submits that its school had been running since the year 1995 and had been granted recognition for running the classes from Standard 1st to Standard 8th in the year 1998 in terms of Rule 50 & 51 in terms of Delhi School Education Rules, 1973 framed under the Delhi School Education Act, 1973. The petitioner has further submitted that the competent authorities of the respondent conducted several inspections and visits and no violation of any conditions stipulated under Rule 50 & 51 of the Delhi School Education Rules, 1973 was spelt out at any stage.

4. The petitioner submits that it was also further upgraded to the secondary level i.e. Standard 10th in the year 2013 by the respondent and at the time of the institution of the petition on 16.11.2018, there were 820 students pursuing their studies belonging to the EWS quota. According to the petitioner, some students approached the petitioner in April 2017 for admission of their children due to their financial constraints and due to their being unable to pay the fees of the school and that the Manager of the Sat Guru Model School also requested the petitioner for giving admission to students who were studying in the said Sat Guru Model School whose parents were financially weak and

that the Manager of the Sat Guru Model School had also informed that the Sat Guru Model School had applied for recognition upto Standard 8th but due to some reasons, recognition had not been granted and as it was a question of the future of the students, the petitioner's school gave admission to the students in its school after completing all formalities of admission.

5. The petitioner has further submitted that a complaint was made by one Sh. Suresh Shrivastva against the Sat Guru Model School levelling many allegations against them but there was no allegation levelled against the petitioner and on the basis of the said complaint an enquiry was constituted by the Deputy Director of Education by constituting a Committee comprising of the DDE, Zone (XI) as a Chairperson, HOS, SKV, No.1, Keshav Puram and HOS, SBV, Keshav Puram as the members of the said Committee to conduct a surprise inspection in respect of the Sat Guru Model School to inquire into the complaint made by Sh. Suresh Shrivastva, (Rashtriya Adhyaksh), Sh. Chitragnpt Foundation alleging therein that the Sat Guru Model School, Keshav Puram, Delhi, which was recognized upto the primary level only, was illegally running classes from Standard 6th to 8th and that the students were being issued passing out certificates by Nav Durga Adarsh Vidhalaya, 165A, Budh Vihar, Phase-2, Delhi i.e. the passing out certificates were being issued by the petitioner.

6. The said enquiry report dated 02.05.2018 conducted in relation to the Satguru Model School Pocket-A2, Keshav Puram reads as under:-

ENQUIRY REPORT

With reference to the complaint of Mr. Suresh Shrivastva (Rashtriya Adhyaksh), Sh. Chitragupt Foundation, against the management of Satguru Model School-Pocket A-2, Keshav Puram, an Enquiry Committee was constituted vide order no. F.DNWB/PB/2018/391 dated 20-04-2018 by the Deputy Director of Education, district NW-B to look into the irregularities related to the school as alleged in the complaint.

Following committee members carried out a surprise inspection of Satguru Model School A-2 Keshav Puram on 24/04/2018.

- | | |
|--------------------------------------|-----------------|
| <i>1. DDE Zone XI</i> | <i>Chairman</i> |
| <i>2. HOS, SKV No.1 Keshav Puram</i> | <i>Member</i> |
| <i>3.HOS, SBV Keshav Puram</i> | <i>Member</i> |

Above stated committee members visited the school on dated 24/04/2018 at 11.00 a.m. and physically inspected the school premises. It was observed by the members that only the Primary Wing (upto 5th standard) was functional in the school and no class beyond V was running in the school premises.

Further the committee members scrutinized the attendance registers & fee receipts books also. It was observed that the name of the Master Pushkar Dubey is reflected in the attendance register of 6th standard maintained by the school for the session 2017-18 (copy enclosed at page 8/C). The Fee receipt of Rs.860/- and Rs.1700/- has also been issued to the same boy i.e. Pushkar Dubey for the month of December 2017 and February 2018 respectively (copy enclosed at page 26/C). The committee checked and verified the attendance register and fee receipt books from the school and found the schools copy of the same maintained in the office.

It is pertinent to mention that this attendance register and fee receipt booklet is in the name of Satguru Model School A-2 Keshav Puram, whereas the report card of the same boy of visit Vth std. has issued from Nav Durga Adarsh Vidyalya Budh Vihar Phase II Rohini for the session 2017-18.

After due scrutiny of attendance register and fee receipt books, it was found that classes 6th and 7th was in function during the session 2017-18. The school charged fee and maintained the attendance register also (copy attached at 2ZC-26C) but Report card was issued from Nav Durga Public School, Budh Vihar. Henceforth, the allegations on Satguru Model School are proved right and school authorities have also admitted the same. To corroborate their statement documentary proof is also enclosed at Pg. No 21C.”

7. The petitioner submits that on 24.04.2018, if the respondent asked him to supply the documents pertaining to the school students and the same was supplied to the Directorate of Education within the stipulated period of time and on 07.05.2018, a letter was issued by the respondent i.e. the Director of Education to the petitioner to give an explanation of the admission of the students including one Pushkar Dubey in the session 2017-18, which was replied to by the petitioner vide its response dated 07.05.2018.

8. A show cause notice bearing No. F.EOZ-XIII/DHWP/ 2018-19/526-530 dated 12.06.2018 was issued by the Deputy Directorate of Education, Zone-3, District North-West, Delhi (B) to the petitioner herein wherein it was stated as under:-

“And whereas, on the basis of the complaint filed by Sh. Suresh Srivastava regarding illegally running of

Class VI to VIII in Sat Guru Model School, Keshav Puram, Delhi (recognized by MCD upto Class V), a team of officers conducted an enquiry into the matter.

And whereas, *on perusal of the enquiry report, it was revealed that Sat Guru Model School, Keshav Puram, Delhi was found functional upto 5th Standard only at the time of inspection, but during scrutiny of the attendance register and fee receipt books, it was noted that the school was running Class VI & VII during 2017-18. The fee receipt of one of the students, Master Pushkar Dubey, a student of Class VI show that it was issued from Sat Guru Model School, Keshav Puram, Delhi, however, the report-card of the student concerned was issued from Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi.*

And whereas, *in order to corroborate the facts from Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi, an enquiry was also conducted in the school.*

And whereas, *the Manager of the school submitted the copies of school records viz. Admission & Withdrawal Register and Attendance Registers, which reflected that names of several students including Master Pushkar Dubey, who were studying in Sat Guru Model School during 2017-18, also exist in school records of Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi.*

And whereas, *the Manager of Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi vide letter 09.05.18 had admitted that the students studying in Sat Guru Model School, Keshav Puram are being issued certificates from their respective school.*

And whereas, *the action on the part of Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi seems to be in violation of the rules and regulations of DSEAR, 1973, since the students have been simultaneously shown enrolled in school which were physically attending classes in Satguru Model School,*

Keshav Puram, during the same academic session. The involvement of the school in illegal activities has been viewed seriously by the Competent Authority.

The reply must reach to the undersigned with complete details (year-wise) about number of students of other schools enrolled and issued SLC who were not physically attending the classes in your school, within 15 days of receipt of this notice, failing which appropriate action shall be taken against the school without any further notice.”

9. The petitioner further adverted to its reply dated 28.06.2018 to the Deputy Director, Zone-13, District North-West (B), Rohini, Delhi to the effect:-

“With due respect, Sir I had been received show cause notice through email on 12/06/2018, on the subject noted above. I already submitted the reason through my earlier letter dated 09.05.2018. The previous letter copy is attached it and I submit that Manager of Sat Guru Model School, Keshav Puram, Delhi is known to me and he informed that their school has send application to department for recognition upto elementary level. Management of Sat Guru Model School requested to issue certificate to student of class VI to VIII of their school as our school was recognized upto Secondary class. Due to only this reason we entered names of students of above school in our school record and issued them passing out certificate. Names of around 66 students VI to VIII class studying in Sat Guru Model School during 2017-18 were shown in our school record. Also no fee charged from them and the photocopy of fee register is attached. There is no other motive in this matter. We just wanted help the management of Sat Guru Model School so that children do not suffer.

Sir there are around 270 students studying in school in present session. I also assure you that our school will be

never doing any such thing in future. We have been giving good education to students since 1998. You are requested not to take any hard action against our school. I once again assure that no such thing will happen again in future and school will function as per instructions of the department.”

10. Vide order No.F892 dated 07.08.2018, the Director of Education concluded to the effect:-

“And whereas, a complaint was filed by Sh. Suresh Srivastava that Sat Guru Model School, Keshav Puram, Delhi (recognized by MCD upto Class V) who is illegally running Classes VI to VIII within the school premises and the certificate of these students of Class VI to VIII are being issued by Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi (recognized by DoE upto secondary level).

And whereas, an enquiry was conducted in the matter, wherein it was revealed that Sat Guru Model School, Keshav Puram, Delhi was found functional upto 5th standard only at the time of inspection, but during scrutiny of the attendance register and fee receipt books, it was noted that the school was running Class VI & VII during 2017-18 illegally. The fee receipt of one of the students, Master Pushkar Dubey, a student of Class VI shows that it was issued from Sat Guru Model School, Keshav Puram, Delhi, however, the report-card of the student concerned was issued from Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi; (recognized by DoE upto secondary level).

And whereas, in order to corroborate the facts from Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi, an enquiry was also conducted in the school.

And whereas; during the enquiry, the Manager of the school submitted the copies of school records viz. Admission & Withdrawal Register and Attendance Registers which reflected that names of several students including Master Pushkar Dubey, who were studying in Sat Guru Model School during

2017-18, also exist in school records of Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi.

And whereas, the Manager of Nav Durga Adarsh Vidyalaya, 165-f Budh Vihar, Ph.II, Delhi vide letter 09.05.18 had admitted the lapse that the students studying in Sat Guru Model School, Keshav Puram are being issued certificates from their respective school. However, it has been ensured that the school will not involve in such practice in future.

And whereas, the action on the part of Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi is considered as violation of the rules and regulations of DSEAR, 1973, since the students enrolled in Nav Durga Adarsh Vidyalaya, were physically attending classes in Satguru Model School, Keshav Puram, during the same academic session. The involvement of the school in illegal activities has been viewed seriously by the Competent Authority.

And whereas, citing the above lapses, a Show Cause Notice under Section 24(4) of DSEAR, 1973 was issued to the concerned school on 12.06.2018, seeking the explanation with regard to the malfunctioning carried out in the school in contravention to the act and rules laid down under DSEAR, 1973. The reply was sought within 15 days of the notice.

And whereas, in response to the said SCN, the Manager of the school has submitted its reply dated 28.06.2018, wherein it has been admitted that names of around 66 students of Class VI to VIII studying in Sat Guru Model School during 2017-18, have been shown in the record of Nav Durga Adarsh Vidyalaya. The reply submitted by the school, has been considered by the Competent Authority and it has been found that the school has violated provisions of DSEAR, 1973.

Now, therefore, I, Sanjay Goel, Director of Education, in exercise of the powers conferred upon me under Rule 56 read with Section 24(4) of DSEAR, 1973, hereby order to withdraw the recognition of Nav Durga Adarsh Vidyalaya, 165-A, Budh Vihar, Ph.II, Delhi (1413202) with immediate effect.”

11. The appeal filed by the petitioner against the said order was dismissed vide order dated 17.10.2018 of the learned Lieutenant Governor of Delhi, wherein it was observed to the effect:-

“Matter came up for final hearing on 26.09.2018. On behalf of the appellant. Counsel submitted that (i) the appellant school has been running since 1995 and was granted recognition from class 1st to class 8th in the year 1998, which was further upgraded upto secondary level in 2013; (ii) as per the show cause notice dated 12.06.2018, it has been alleged that admission of the children of other school namely Sat Gum Model School in the appellant school is illegal; (iii) the parents of the students of Sat Guru Model School had requested for admission of their children in class 6th, 7th & 8th, as Sat Guru Model School, which was recognized only upto class 5th, had applied for recognition upto 8th standard and had given admission to some children in class 6th, 7th & 8th with the hope that the school would get due recognition; (iv) the school could not get recognition within the expected time on administrative grounds and therefore Sat Guru Model School was not in a capacity to issue proper TCs (Transfer Certificate) to those students; (v) some students took their TCs in March 2018 from the appellant school as the concerned parents insisted that they want their children to be admitted in Govt. Schools as they could not afford the high fee of the private school; (vi) there is no allegation against the appellant school that it has breached any of the provisions of Rules 50 & 51 of DSEAR, 1973, as alleged by the respondent in the show cause notice and in the impugned order, moreover the matter of irregularity, if any, of granting admission to some children was of April 2017 while the enquiry was conducted in May 2018 and by that time all the children had been issued TCs and obtained admission in Govt. Schools; (vii)

According to Rule 57(Restoration of Recognition) of the Delhi School Education Rules, if the reasons which-lead to the withdrawal of recognition have been removed and the school complies with provisions of the Act/Rules made there under, the recognition shall be restored; (viii) the judgment of the Hon'ble Delhi High Court in the matter of Dashmesh Education Society vs Director of Education, 107 (2003) DLT 301 is applicable in the present matter; (ix) at present the school has a strength of 682 students including 50 under EWS-category; (x) in case the recognition of the school is not restored, the appellant school shall face irreparable loss adversely affecting the future of the students and staff members. It was, therefore, prayed that impugned order be set-aside.

On behalf of the respondent department, Counsel reiterated the facts mentioned in the impugned order and stated that (i) on receiving a complaint that Sat Guru Model School is illegally running classes from 6th to 8th and the students are being issued passing out certificates by the appellant school i.e. Nav Durga Adarsh Vidhalaya; (ii) during the inspection carried on 24.04.2018, it was observed that only the Primary Wing (upto 5th standard) was functional in Sat Guru Model School and no classes beyond 5th standard were running in the school premises, however on scrutiny of attendance register and fee receipt booklet, it was revealed that the said school has been running classes for 6th and 7th standard during 2017-18 session; (iii) the records of Sat Guru Model School shows that names of several students studying during 2017-18 also exist in school records of Nav Durga Adarsh Vidhalaya; (iv) there is no legal provision for any school to get mutual settlement regarding the admission and transfer of student on behalf of the other school.

I have considered the submissions made by both the sides and gone through the case file. I observe that the appellant school has simultaneously shown students enrolled with them, who were physically attending classes in Sat Guru Model School during the same academic session. The said lapse has also been admitted by the appellant.

In view of the above, I find no ground to interfere with the impugned order, which is cogent and logical. The appeal is accordingly rejected.

Before parting with the case, the Director (Education) is directed to look into the lapses, if any, on part of officers/ officials of the Education Department in the matter, particularly with regard to issuance of Transfer Certificates.

File be consigned to records after completion.”

12. The petitioner has submitted that it has no connection with the Sat Guru Model School and that the Sat Guru Model School and the petitioner's school i.e. Nav Durga Adarsh Vidhalaya both are two different entities and that merely because the petitioner, for the future of the students of the Sat Guru Model School had admitted students in its school after completion of all formalities of admission as per the procedure, the same would not suffice to bring forth any allegations against the petitioner's school.

13. The petitioner has further submitted that the respondent has put forth the alleged fee receipt of the student named Pushkar Dubey allegedly issued by the Sat Guru Model School and that no enquiry was conducted from Pushkar Dubey nor his parents nor was it cross checked from them whether the said student fee receipt was fake or genuine nor was it cross checked whether the students were present in

the school of the petitioner and that the enquiry had not been conducted properly and that the petitioner's school recognition had been withdrawn without conducting any proper enquiry without constituting an enquiry Committee and that an arbitrary order had been passed by the Directorate of Education as well as by the learned Lieutenant Governor.

14. The petitioner has further submitted that the reply of the petitioner dated 09.05.2018 issued by the Manager of the petitioner's school, wherein it was mentioned that:-

“as our school is recognized up to secondary class and school just wanted to help the management and students of Sat Guru Model School due to only this reason we entered the name of the student of Sat Guru Model School in our school and issued them passing out certificate and also no fee has been charged from them.”,

had been deliberately misinterpreted and all the contents of the reply dated 09.05.2018 of the petitioner had not been taken into account. The contents of the said letter bearing Ref. No. NDAV/06/2018 dated 09.05.2018 of the Manager of the petitioner to the Deputy Director of Education, Zone-13, Rohini Sector-09, Delhi read to the effect:-

***“To,
The Dy Director of Education
Zone-XIII, Rohini Sec-09,
Delhi-110085***

Subject: Reply to letter No.EOZ-XIII/DNWB/2018-19/395 dated 07.05.2018.

Sir,

With due respect I submit that Manager of Sat Guru Model School, Keshav Puram, Delhi is known to me and he informed that their school has send application to department for recognition upto elementary level. Management of Sat Guru Model School requested to issue certificates to students of Class VI & VII in their school. As our school is recognized upto secondary class we just wanted help the management and students of Sat Guru Model School. Due to only this reason we entered names of students of Sat Guru Model School in our school and issued them passing out certificates. Also no fee charged from them. There is no other motive in this matter. I also assure you that our school will be never doing any such thing in future.

This is for your information and oblige.”

15. The petitioner seeks to submit that the Directorate of Education and the learned Lieutenant Governor had overlooked the aspect that in the letter dated 09.05.2018 issued on behalf of the petitioner itself, it had been stated that the names of the students of the Satguru Model School had been entered in the Nav Durga Adarsh Vidhalaya i.e. the petitioner's school which itself implied that the school had completed all the formalities of admission and had then entered the names of the students in the petitioner's school and had committed no violation. The petitioner has further submitted that the Directorate of Education and the learned Lieutenant Governor had also misinterpreted the contents of the reply dated 28.06.2018 of the petitioner to the show

cause notice issued by the Directorate of Education, which has already been adverted to herein above.

16. The petitioner has further submitted that it has never issued the Standard 5th certificate to Pushkar Dubey because the student was studying in Standard 6th, Section-B in the petitioner's school and was admitted on 25.04.2017 in the petitioner's school and the date of his withdrawal from the petitioner's school after passing Standard 6th is 31.03.2018.

17. The petitioner has further submitted that as per the Directorate of Education itself, the Satguru Model School was recognized upto Standard 5th and thus, it is apparent that the petitioner's school could not have issued the certificate of Standard 5th. The petitioner has further submitted that the findings of the learned Lieutenant Governor vide order dated 17.10.2018 dismissing the appeal of the petitioner observing to the effect that the petitioner's school had simultaneously shown the students enrolled with them who were physically attending the classes with the Satguru Model School during the same academic session, was wholly perverse, in view of the findings in the enquiry report of the enquiry conducted by the Directorate of Education qua the inspection of the Satguru Model School on 24.04.2018, which was to the effect:-

“above stated committee members visited the school (sat guru model school) on dated on 24/04/18 at 11 am and physically inspected the school premises. It was observed by the member that only the primary wing (upto 5th std.) was functional in the school and no class beyond Vth was running in the school premises.”

18. The petitioner thus, submits that it is apparent from this report of the Directorate of Education that no student of Standard 6th or above has physically been seen attending the classes in the Satguru Model School when the enquiry was being carried out. The petitioner has further submitted that all requirements of the Delhi School Education Rules, 1973 have been complied with by the petitioner and that the student named Pushkar Dubey was a student of the petitioner's school and all documents pertaining to his admission and withdrawal from the petitioner's school i.e. the attendance record register, progress report, examination report card, admission and withdrawal register were maintained by the petitioner from time to time and available with the petitioner's school, which clearly showed that the student named Pushkar Dubey was studying in Standard 6th, Section-B with the petitioner and was admitted on 25.04.2017 and passed out on 31.03.2018 after passing out Standard 6th.

19. The petitioner has further submitted that the affidavit of the parent of the child namely Pushkar Dubey is also categorical and clear that the said child was studying with the petitioner's school. The affidavit of the father of the student Pushkar Dubey reads to the effect:-

AFFIDAVIT

I, SHIVADHAR DUBEY S/O JAGDAMBA DUBEY R/O SHARMA COLONY, BUDH VIHAR, PHASE-2 DELHI, do hereby solemnly affirm and declare as under:-

- 1. That the deponent is the father of the Pushkar Dubey Who were studying in petitioners school in 6th std. i.e. Nav Durga Adarsh vidyalaya.*
- 2. That the deponent's son was studying in Sat Guru Model School , Keshav Puram Delhi upto 5th std. and sat guru model school promoted the deponent's son in 6th std. by stating that they have applied for affiliation upto 8th standard and the session for the new class will be started from 2017-2018 and the deponent submitted the fee for the same.*
- 3. That in the month of April 2017 Sat Guru Model School informed us that the school failed to get recognition for the higher class and the deponent along with some parents went to Sat Guru Model School Keshav Puram, Delhi for take his charges back and for help to get admission in new school the principal of Sat Guru Model School assured that I will help you to get admission in NAV DURGA ADARSH VIDYALAYA BUDH VIAHR PH. 2, Delhi and also said that petitioner school is known to me and I will help you/deponent son and other parents children to get the admission in the same.*
- 4. That in the month of April 2017 the deponent approached to NAV DURGA ADARSH VIDYALAYA BUDH VIHAR PH. 2 after so many request done by the deponent as well as Sat Guru School to the petitioner school i.e Nav Durga Adarsh Vidyalaya School to gave admission to the deponent children and after completing the whole admission process petitioner school gave the admission to the Deponent son.*
- 5. That the deponent also requested the principal of the school that the deponent is not financial strong and cannot give the fee as the deponent have already paid to Sat Guru Model School.*
- 6. That the deponent's son was start taking class of 6th std in NAV DURGA ADARSH VIDYALAYA BUDH VIHAR PHASE 2 after completing/passing the same the deponent withdraw his son in 2018 .*

7. That one Suresh Srivastava approached the deponent and assured to get done the admission of deponent son in Loin public school at free of cost and also took previous Fee receipt of the Sat Guru Model School. But no admission done by the Suresh Srivastava then deponent has no other option to get done his son admission in Govt School.

8. That the deponent is fully conversant with the facts of the case and as such well conversant to swear the affidavit.”

20. The petitioner has further submitted that the complaint made by the respondent to the SHO, PS Vijay Vihar also had resulted to the effect that the petitioner was innocent and that thus the order of the Directorate of Education and the learned Lieutenant Governor were both liable to be set aside. Inter alia the petitioner has submitted that the School Leaving Certificate issued to students in the month of March 2018 after attending session 2017-18 as per rules was to be duly counter signed by the Director of Education after verifying the same and since the Directorate of Education was a signatory to the School Leaving Certificates which states that the student Pushkar Dubey was a student of Standard 6th in the petitioner's school and had passed the Standard 6th examination, the impugned order of the Directorate of Education was liable to be set aside.

21. The counter affidavit of the Deputy Director of Education of the respondent dated 04.02.2019 submits to the effect that it is the duty of the DDE Zone to counter sign the School Leaving Certificates issued to the students by the head of schools of Govt./ Govt. aided/unaided recognized private schools after production of the same, but that it was

the foremost liability of the Head of the schools to verify the details of the students before issuing transfer certificates to him/her which were available in the school itself and that the DDE Zone was to counter sign the same after verifying the specimen signature of the HOS only provided in the zonal office and that there was no lapse(s) on the part of any officers/officials with regard to counter signature of transfer certificate of any student. The respondent has further submitted that vide letters dated 28.06.2018 and 09.05.2018 of the petitioner to the show cause notice issued by the respondent to the petitioner itself admitted that the petitioner's school had entered the names of students of Satguru Model School in the petitioner's school record and issued them passing out certificates and wanted to help the management of the Sat Guru Model School, which was a gross misconduct on the part of the school/management.

22. Through the rejoinder submitted by the petitioner, submissions made in the petition have been reiterated submitting inter alia to the effect that the notification dated 23.11.2011 issued by the department of education itself provides as follows:-

“No.DE.23f462)/Sch.Br./10/17-33.DATED 23/11/2011

"In exercise of the powers conferred by section 38 of the Right of Children to Free and Compulsory Education Act 2009 (35 of 2009), the Lt. Governor of National Capital Territory of Delhi hereby makes the following rules, namely.

15. Withdrawal of recognition to school.—

(1) Where the concerned District Education officer on his own motion, or on any representation received from any person, has reason to believe, to be recorded in writing, that a school recognised under rule 14, has violated one or more of the conditions for grant of recognition or has failed to fulfil the norms and standards specified in the Schedule, the said Officer shall act in the following manner-

(a) Issue a notice to the school specifying the violations of the condition of grant of recognition and seek its explanation within one month.

(b) In case the explanation is not in conformity with the norms and standards as specified in the Schedule or no explanation is received within the stipulated time period, the concerned District Education Officer may cause an inspection of the school, to be conducted by a Committee of three to five members which shall make due inquiry and submit its report, along with its recommendations for continuation of recognition or its withdrawal, to the Director of Education who may pass an order for continuation of recognition or withdrawal, as the case may be :Provided that no order for withdrawal of recognition shall be passed without giving the school adequate opportunity of being heard;

Provided further that no such order shall be passed by the said officer without prior approval of the Government.

(2) The order of withdrawal of recognition passed shall be operative from the immediately succeeding academic year and shall specify the neighbourhood schools to which the children of that school shall be admitted.”

and it has thus been submitted that the said notification itself is categorical that the withdrawal of recognition has to operate from the succeeding academic year and not immediately as was done in the

instant case vide the impugned order dated 07.08.2018 of the respondent.

23. The petitioner has thus submitted that the show cause notice has thus been clearly issued without an open mind and has been issued on the basis of a bias which is visible from the factum that the recognition of the petitioner was withdrawn with immediate effect and had not been withdrawn in accordance with Rule 15 of the Rules framed under the Right of Children to Free and Compulsory Education Act, 2009.

24. The petitioner has further submitted that a gross departmental bias is brought forth through the enquiry report itself, in as much as, it was only on the basis of attendance of one or two days that the respondent has put forth the number of students actually attending the school and that the report of the respondent was thus prejudiced and cannot be termed to be the gospel truth.

25. On behalf of the petitioner, reliance was placed on the circular No. DE.15/Act-I/(311)/2015/ 4912-4915 dated 01.12.2015 of the Directorate of Education, to submit that it has been detailed therein to the effect:-

“Therefore, all the Dy. Directors of Education (Zones), Directorate of Education are hereby authorized to countersign the School Leaving Certificates issued to the students and Experience Certificates issued to employees by Private Unaided Recognized Schools after duly verifying the relevant records submitted by the school.”

and thus, the transfer certificates having been verified by the Director of Education itself made the transfer certificate issued by the petitioner in relation to Master Pushkar Dubey authentic and that the allegations

levelled against the petitioner and findings in the enquiry report and of the Directorate of Education and of the learned Lieutenant Governor were wholly faulty.

26. Reliance was also placed on behalf of the petitioner on the verdict of the Hon'ble Supreme Court in "***ORYX Fisheries Private Limited Vs. Union of India and others***" in Special Leave Petition (C) No.27615/2008, to contend that the very factum that the order of the Directorate of Education dated 07.08.2018 withdrew the recognition of the petitioner with immediate effect, made it apparent that there was a whole departmental bias and that the *quasi judicial* authority had not proceeded in accordance with law.

27. On a consideration of the pleadings on the record and the documents placed on the record on behalf of either side including the attendance register of the petitioner in relation to the child Master Pushkar Dubey and the reply dated 28.06.2018 and 09.05.2018 of the petitioner, it is evident that the students of the Sat Guru Model School were shown to be on the records of the petitioner despite the factum that they are not even registered with the petitioner, in the circumstances, the impugned order dated 07.08.2018 of the Directorate of Education and the impugned order in appeal of the learned Lieutenant Governor dated 17.10.2018 de-recognizing the petitioner's school, cannot be faulted with to the extent of de-recognizing of the petitioner.

28. The report of the learned Lieutenant Governor also shows that the Sat Guru Model School had several students studying during session 2017-18 and that the records of the Sat Guru Model School

showed that names of several students studying there during session 2017-18 also existed in the school records of the petitioner. It is significant that the learned Lieutenant Governor had also directed the Directorate of Education to look into the matter qua lapses, if any, on the part of the officials of the education.

29. On a consideration of the rival submissions however, and the notification bearing No. DE.23(462)/Sch.Br./10/17-33 dated 23.11.2011 of the respondent itself, makes it clear that the order of withdrawal of recognition of the petitioner's school can be operative only from the immediately succeeding academic year and thus, the impugned order dated 07.08.2018 of the learned Directorate of Education directing the withdrawal of recognition of the petitioner with immediate effect has essentially to be modified to read to the effect that the order of withdrawal of recognition of the petitioner's school has to be operative from the immediately succeeding academic year, which has not been complied with by the respondent and that the date of withdrawal of recognition to the petitioner's school can only be w.e.f. 31.03.2019 and the said impugned order dated 07.08.2018 of the Ld. Directorate of Education is modified accordingly.

30. A further submission was made during the course of submissions made on behalf of the petitioner in view of the de-recognition of the school of the petitioner, the welfare of the students of the petitioner required that they were admitted to schools by the respondent in relation to which it was submitted on behalf of the respondent by the learned ASC, Civil to the effect that all students who were studying in the school of the petitioner and who were to be

admitted would be adjusted in schools of the respondent on their moving applications by 05.07.2019 and that the erstwhile students of the petitioner who sought the issuance of transfer certificates, may apply to the Deputy Director of Education of Zone-13 and that their applications in relation thereto would be processed in accordance with law.

31. In view of the said submission made on behalf of the respondent, it is expected that the respondent would comply with all necessary requirements of law for issuance of the transfer certificates to the erstwhile students of the school of the petitioner on students applying for the same and would also get all students studying in the petitioner's school who seek to be admitted to other colleges to be also so got admitted.

32. The respondent shall also take appropriate action in terms of order dated 17.10.2018 of the learned Lieutenant Governor, Delhi in relation to the lapses on the part of officers/officials of the Education Department in relation to the issuance of transfer certificates of the students seeking transfer from the petitioner's school.

33. With the above observations, the petition is disposed of accordingly.

ANU MALHOTRA, J

JULY 9th, 2019/NC