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

Date of decision: 24th January, 2020

+ W.P.(C) 914/2020

SHEFALI KHULLER AHUJA Petitioner
Through Mr. M. Sufian Siddiqui and Mr.
Rakesh Bhugra, Advs.

Versus

NEW DELHI MUNICIPAL COUNCIL AND ORS..... Respondents
Through Mr. Sanjeev Sabharwal, Sr.
Government Counsel with Mr. Bushra
Waseem, Adv. for respondent no. 2

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER
% **24.01.2020**

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) No. 914/2020

1. This so-called Public Interest Litigation (PIL) has been preferred with the following prayers:-

“a. Issue a writ in the nature of mandamus thereby directing the NDMC/respondent no.1 herein to discharge its statutory duties in accordance with law whilst forthwith taking apposite legal action against the School viz. "The Wonderland School"/respondent no.3 herein situated within the precincts of

New Moti Bagh Complex, Chanakyapuri, New Delhi for its ostensible unlawful acts. And

b. Issue a writ in the nature of mandamus thereby directing the NDMC/respondent no.1 herein to discharge their statutory duties in accordance with law whilst forthwith cancelling the License Deed in question executed in favour of the Wonderland School/respondent no.3 herein for ostensibly acting in flagrant violation of the covenants of the License deed in question. And

c. Issue a writ in the nature of mandamus thereby directing the NDMC/respondent no.1 herein to forthwith conduct the requisite Financial Audits of the Wonderland School/respondent no.3 herein w.e.f. Year 2012 i.e. the Year of allotment till date; and recover the deliberately evaded/concealed revenue from the Wonderland School along with penal interest w.e.f. 2012 till date as contemplated in the covenants of the License Deed in question; and consequently file the Compliance Report thereof before this Hon'ble Court. And

d. Issue a writ in the nature of mandamus thereby directing the UOI/respondent no.2 herein to revoke the mandate given to the NDMC/respondent no.1 herein in terms of Allotment Letter dated: 14.05.2012 for setting up a Play School/Pre Primary School at New Moti Bagh Complex, Chanakyapuri, New Delhi owing to their acts of brazen/violation of the aforesaid mandate/terms and conditions as envisaged in the aforesaid mandate letter of allotment therein. And

e. Issue a writ in the nature of mandamus thereby directing the NDMC/respondent no.1 herein to set up a High Level Enquiry Committee to fix the accountability qua the ostensible acts of deliberate omissions and commissions and collusion on the part of delinquent officials of the NDMC/respondent no.1 herein for acting in cahoots with the Wonderland School/respondent no.3 herein and consequently take apposite legal action against the said delinquent officials in a time bound manner. And

f. Grant any other further relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. Having heard counsel of both sides and looking to the facts and circumstances of the case, it appears that several allegations have been leveled by the petitioner herein against the respondent no. 3 – “The Wonderland School” regarding the violation of covenants of Licence Deed. The allegations made by the petitioner, include inter alia, non-payment of appropriate license fee, illegal allotment of land, encroachment upon public land, violation of the Right of Children to Free and Compulsory Education Act, 2009 and non-holding of requisite inspections and audits of the school in accordance with law. The school runs on a land that was allotted to it under an agreement with the respondent-Government Authorities.

3. Learned counsel for respondent no. 3 submitted that the petitioner is ex-employee of the respondent-school. After her dismissal, all wisdom has suddenly befallen the petitioner about the respondent-school having indulged in illegal activities, against which she has preferred this writ petition as a

PIL.

4. The Government has sufficient machinery to deal with the issue pertaining to payment of license fee by the school in question. Therefore, without proper establishment of facts, we see no reason to give any direction in this regard to the respondent-Government Authorities. Moreover, in a writ petition, we cannot arrive at a final conclusion about non-payment of appropriate license fee to the Government or about a contract entered in between the respondent Government-Authorities and respondent no. 3 regarding allotment of land or about the so-called encroachment by the school on public land, all of which have been alleged by the petitioner. In our view, all these allegations are required to be established by cogent and convincing evidence before the Trial Court. The petitioner is always at liberty to initiate criminal prosecution at her own peril and risk, but, if the same is found to be malicious, the respondents can also initiate criminal prosecution against such malicious complaint. So far as allegations regarding violation of the Right of Children to Free and Compulsory Education Act, 2009 and non-holding of inspections and audits of the school are concerned, respondents shall ensure proper implementation of the Act and that inspections and audits are carried out by the concerned respondent-Government Authorities at the school in question. We expect from the respondent-Government Authorities that the audits which are necessary with respect to respondent no. 3 under the existing laws will be carried out and proper verification shall also be done.

5. With these observations, this writ petition is hereby disposed of.

CM Appl. Nos. 2908-10/2020

In view of the order passed in the writ petition, these applications are disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

JANUARY 24, 2020

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