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

% Judgment delivered on: 05.05.2020

+ W.P.(C) 3041/2020

APEEJAY SCHOOL, SHEIKH SARAI Petitioner

versus

OFFICE OF DISTRICT MAGISTRATE
(SOUTH) & ORS. Respondents

+ W.P.(C) 3042/2020

APEEJAY SCHOOL, SAKET Petitioner

versus

OFFICE OF DISTRICT MAGISTRATE
(SOUTH) & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. H.L.Tiku, Senior Advocate with Mr. Sanjeev Ralli and
Ms. Yashmeet Kaur, Advocates

For the Respondent: Mr. Gautam Narayan, Additional Standing Counsel and
Ms. Shivani Vij, Advocate for R-1 & 2.

Mr.Santosh Kumar Tripathi, Additional Standing Counsel
for R-3 & 4.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.10595/2020 & 10622/2020 in W.P(C) 3041/2020

CM APPL.10598/2020 & 10624/2020 in W.P(C) 3042/2020

Allowed, subject to all just exceptions.

CM APPL.10593/2020 in W.P(C) 3041/2020
CM APPL.10596/2020 in W.P(C) 3042/2020

Petitioners shall file the duly attested affidavits and pay the requisite Court fees within one week of the lockdown being lifted.

Applications are disposed of.

CM APPL.10623/2020 in W.P(C) 3041/2020
CM APPL.10625/2020 in W.P(C) 3042/2020

Notice has yet to be issued in the writ petitions.

For the reasons stated in the applications, applications are allowed.

The amended petitions are taken on record.

W.P(C) 3041/2020 & CM APPL.10594/2020

W.P(C) 3042/2020 & CM APPL.10597/2020

1. The hearing was conducted through video conferencing.
2. Petitioners impugn order dated 01.05.2020 whereby respondent No.1 & 2 have directed the Deputy Director of Education to register a FIR against the school and also to seal the premises of the school. Petitioner is further aggrieved by order dated 04.05.2020 and the action taken by the respondents of sealing the school premises.
3. It is contended by learned senior counsel for the petitioner that the impugned action has been taken pursuant to a direction issued on

11.04.2020 and 18.04.2020. Learned senior counsel under instructions submits that the petitioner's school has complied with all the directions issued by the Directorate of Education, however, in so far as the fee hike is concerned, the same was enhanced for the year 2019 – 2020 which was not permitted by the Directorate of Education and accordingly a writ petition was filed before this Court being W.P(C) 5982/2019 (Apeejay School, Saket) and W.P(C) 7459/2019 (Apeejay School, Sheikh Sarai).

4. Learned senior counsel submits that no show cause notice or an opportunity of hearing was granted to the petitioners prior to the passing of the order of sealing of the school premises and of sealing the schools.

5. The order dated 01.05.2020 specifically records that Petitioner has not complied with order dated 18.04.2020. It is an admitted position that after 11.04.2020 and 18.04.2020 no show cause notice has given to the petitioner school requiring the school to explain their position and no opportunity has been given to the Petitioner/school to show that it had complied with the directions contained in orders dated 11.04.2020 and 18.04.2020.

6. Learned senior counsel for the petitioner under instructions submits that the school will continue to charge the fee in terms of order dated 27.05.2019 in W.P(C) 5982/2019 and in terms of order dated 31.07.2019 in W.P(C) 7459/2019 and subject to further orders

to be passed in the said Writ Petitions. He submits that the same would be without prejudice to their stand in the said Writ Petitions.

7. Since no show cause notice or opportunity of hearing was given to the petitioner schools before sealing of their premises, the impugned action of sealing cannot be sustained.

8. The directions issued by impugned orders dated 01.05.2020 and 04.05.2020 in so far as they relate to sealing of the school premises are concerned are set aside. The Directorate of Education shall desal the premises of the petitioner forthwith.

9. The Directorate of Education is permitted to issue a show cause notice to the petitioners. Petitioners shall file a response to the Show Cause Notice within one week. The Directorate of Education shall thereafter fix an appropriate date of hearing before the competent authority i.e. the Directorate of Education or his nominee. Directorate of Education/his nominee shall pass a speaking order after the hearing in accordance with law.

10. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party and the Directorate of Education would be at liberty to take appropriate action in accordance with law, if so warranted, after granting an opportunity of hearing to the petitioners.

11. It is further clarified that this Court has neither considered nor

commented upon the merits of the direction of respondents with regard to registration of FIR against the petitioner school. In case any criminal action is initiated by the Respondents, Petitioners would be entitled to defend the same in accordance with law.

12. All rights and contentions of the parties are reserved.

13. Petitions are accordingly disposed of in the above terms.

14. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsel for the Parties through email.

SANJEEV SACHDEVA, J.

MAY 05, 2020

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