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

\+ W.P.(C) 3371/2020, CM APPL. 11959/2020 (exemption) & CM APPL. 11960/2020 (exemption from court fees)

RAM DHARI JINDAL MEMORIAL TRUST(REGD.) THROUGH: ITS CHAIRMAN, SH R.S. JINDAL ..... Petitioner

Through: Petitioner in person.

versus

NORTH DELHI MUNICIPAL CORPORATION THROUGH: ITS COMMISSIONER ..... Respondent

Through: Mr. Sudhir Nandrajog, Senior Advocate and Mr. Akhil Mittal, SC for North DMC with Mr. P.K. Sharan (AE Headquarters) and Mr. Babu Ram (EE Headquarters).

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 05.08.2020

The hearing was conducted through video conferencing.

1. This petition seeks the following reliefs:

> *"(a) quash the Order dated 17.02.2020 of the Ld. Tribunal vide which the Ld. Tribunal has denied the right of deemed sanction of building plans of the Petitioner's School and Institute as provided under Bye-Law No. 2.3.4 of UBBL-2016 in view of great hardships and hazards being faced by students of the Petitioner's School and the School virtually facing its closure / shut down.*
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> *(b) quash the Order dated 17.02.2020 of the Ld. Tribunal vide which the Ld. Tribunal has*

remanded back the Appeals before it to the quasi judicial authority of the Respondent for fresh decision as being beyond jurisdiction of the Ld. Tribunal.

(c) quash the Order dated 17.02.2020 of the Ld. Tribunal vide which the Ld. Tribunal has directed the Petitioner "to maintain status quo regarding construction, title and possession of the property in question and shall not carry out further construction or create third party interest therein or part with possession of the subject property" as the Petitioner is entitled to raise construction as per the deemed sanctioned plans and the title and possession of the property of the School and Institute are not in dispute and not a subject matter of the Appeals of the Petitioner before the Ld. Tribunal.

(d) direct the Respondent North DMC to release the deemed sanctioned plans of the School and Institute of the Petitioner at the earliest, without any further delay and in time bound manner.

(e) pass such other further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. In effect, the order passed by the learned ATMCD in Appeal Nos. 61-62/2018, dated 17.02.2020, is sought to be impugned. Under Section 347D of the Delhi Municipal Corporation Act, 1957, an appeal lies before the Administrator against the order of the learned ATMCD. Since there is an alternate and equally efficacious statutory remedy available, the petitioner has the liberty to avail of the said remedy.

3. The Corporation submits that in terms of the dicta of the Supreme Court in *Amrik Singh Lyallpuri vs. Union of India & Others*, Civil Appeal No. 5075 of 2005, 'the Administrator' has to be read as the District Judge. The judgment, *inter alia*, reads as under:

> *"....*
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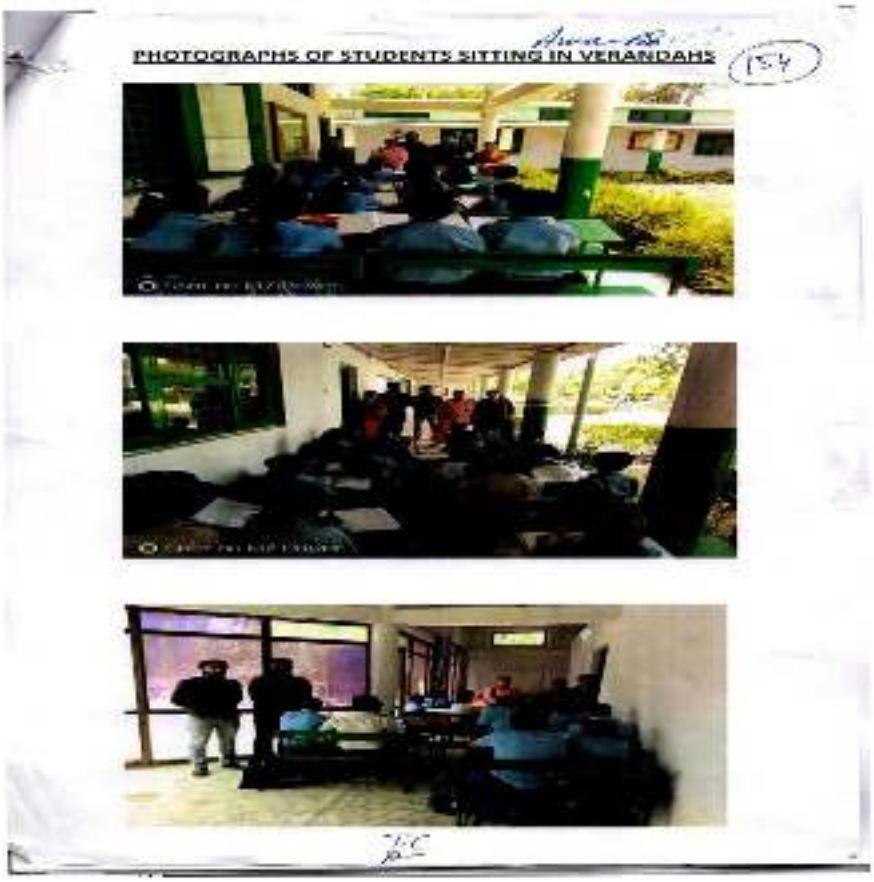
> *25. In view of this decision by this Court, till a proper judicial authority is set up under the aforesaid Acts, the appeals to the Administrator under Section 347D of the Delhi Municipal Corporation Act, 1957 and also under Section 256 of the NDMC Act shall lie to the District Judge, Delhi. All pending appeals filed under the erstwhile provisions, as aforesaid, shall stand transferred to the Court of District Judge, Delhi. However, the decisions which have already been arrived at by the Administrator under the aforesaid two provisions will not be reopened in view of the principles of prospective overruling.*
>
> *....."*

4. In view of the above, the writ petition, along with the pending applications, is disposed-off with liberty to the petitioner to pursue the remedy as provided in the statute.

5. Photographs attached to the petition show that students of the school are sitting out in the open. They are exposed to the elements in all seasons. It is argued that these circumstances are not conducive to their education. Therefore, the petitioner requests an early decision in the matter. The photographs are reproduced hereinunder:



6. The Court is confident that the petitioner's request for urgent decision in the matter will be considered by the learned Appellate Court.
7. The learned counsels for the North DMC submit that they too will assist the learned Appellate Court to arrive at an early decision in the appeal and will not seek any unnecessary adjournments.
8. Noting stated in this order shall be deemed to be an adjudication on the merits of the case.
9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

AUGUST 05, 2020/AB