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

+ **W.P.(C) 5885/2019 & CM No.25557/2019**

SURESH CHANDER GUPTA Petitioner

Through: Mr. Yogesh K. Chandna, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondent

Through: Ms. Shivani Vij, Adv. for Mr. Gautam Narayan, Adv. for R-1 & 2/GNCTD.

Mr. Areeb Y. Amanullah with Mr. Siddharth H. Raval, Adv. for R-3, 4 & 5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

06.02.2020

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1. The substantive prayers made in the writ petition are as follows:

“(a) Issue an appropriate writ, order or direction directing the respondents to immediately comply with the Order no.DDE-15/WA/657 dated 03.11.2018.

(b) The respondent no. 3 be directed to refund the excess fee collected from students immediately to the parents of the students. And to reverse the increased fee to the fee which the school was taking in session 2017-18. And further to take permission every year for increasing the fee.

(c) Direct the respondents and especially respondent no 3 to restore the school fee to the fees of Session 2017-18 and refund / adjust the excess fee collected since 1st April, 2018.

(d) The respondent no. 3 be also directed to not increase

the fee till the time they have sufficient reserve funds and till any permission or direction is given to them permitting any Increase in the fees.

(e) Respondent no. 3 be also restrained from pressurizing the payment of fees of any students in any manner.

(f) The respondent no. 3 School be also directed to make a parents teacher association (PTA) wherein at least 50 parents must be given representation.

(g) The respondent no. 3, 4 and 5 be directed to take any decision with consultation of PTA wherein majority of parents members give consent to the action to be taken, i.e. unless the majority of parents members of PTA did not give consent for any action then that action should not be taken.

(h) The contempt proceedings be initiated against respondents no. 3, 4 and 5 for not implementing the orders of Respondent no. 2.

(i) The interim order be passed thereby restraining the school authorities from pressurizing the students or harassing the students to force their parents for making payment of hiked fees till disposal of present writ petition.

G) The Respondent no. 1 and 2 be directed to keep concern of the children without taking concern of the classification of the schools. All the schools should be given same directions in respect of children...”

2. A perusal of the aforesaid prayers shows that clearly relief sought in prayer clause (h) is misconceived. No such prayer can be granted. Powers of contempt cannot be used in writ proceeding to enforce Directorate of Education's (DOE) order.

3. That being said, the principal grievance of the petitioner is that there is no compliance of the order dated 3.11.2018, passed by the DOE.

4. The operative directions contained in order dated 3.11.2018 of the DOE reads as follows:

“Accordingly it is hereby conveyed to Hansraj Model School, Road No. 73, Punjabi Bagh, New Delhi - 110026 that there is no need to increase the fee for the session 2018-19. Further, the management of the said school is hereby directed under Section 24(3) of DSEAR, 1973 to comply with the following directions:

1. Not to increase any fee for the session 2018-19 and if the fee is already increased and charged for the academic session

2018-19 the same shall be refunded to the parents or adjusted in the fee of subsequent months.

2. To communicate to the parents through its Website, Notice

Board and circular about the same.

3. To remove the financial and other irregularities /violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the DDE (WEST A).

4. To ensure that the Salaries and Allowances shall come out of the fees whereas capital Expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of India in its Judgment of Modern School Vs. Union of India and Others. Therefore, School not to include capital expenditure as a component of fee structure to be submitted by the School under Section 17 (3) of DSEA, 1973.

5. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by the directorate from time to time...”

5. Ms. Shivani Vij, who appears for respondent No.1 & 2/DOE says that pursuant to the order dated 3.11.2018, a show cause notice was issued to respondent No.3 i.e. Hansraj Model School, Road No. 73, Punjabi Bagh, New Delhi – 110026, dated 11.2.2019, the said show cause notice is appended as Annexure-E to the counter affidavit filed on behalf of the DOE.

6. Ms. Vij says that since there was no response to the show cause notice dated 3.11.2018, another show cause notice dated 13.6.2019 was served on respondent No.3 school.
7. Evidently, no reply has been filed to the other show cause notice as well.
8. I have enquired from Ms. Vij as to whether respondent No.3 school is obliged to put in place a Parents Teachers Association, Ms. Vij has affirmed that such an obligation is indeed cast on respondent No.3 school.
9. Given these circumstances, the captioned writ petition is disposed of with the following directions:
- (i) The DOE will adjudicate upon the aforementioned show cause notice within the shortest possible time, *albeit*, as per law.
 - (ii) The DOE will also take appropriate action against respondent No.3 school as also against respondent No.4 and 5 in accordance with the law putting in place a Parents Teachers Association. This exercise will also be completed at the earliest.
 - (iii) The DOE will inform the petitioner as to the outcome of the adjudication of the show cause notice and the directions issued by it concerning failure to constitute a Parents Teachers Association.
10. Resultantly, pending application shall stand closed.

RAJIV SHAKDHER, J

FEBRUARY 06, 2020/pmc