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

% *Date of Decision: 4th October, 2021*

+ **CONT.CAS(C) 63/2020**

SARITA SAXENA & ORS

..... Petitioners

Through: Ms. Madhumita Bhattacharjee,
Advocate

versus

KAILASH CHANDRA & ORS

..... Respondents

Through: Mr.Santosh Kumar Tripathi, Standing
Counsel (Civil) GNCTD with Mr. Arun Panwar &
Mr. Siddharth Krishna Dwivedi, Advocates for
R-1

Mr. Raj Kumar Kapoor, Advocate for R-2 & R-3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings have been conducted through video conferencing.

CM APPL.3169/2020 (exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

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1. Present contempt petition has been preferred seeking the following reliefs:-

“a) Initiate contempt proceeding against the alleged contemnor for wilful and deliberate disobedience of order dated 02.05.2019 of this Hon’ble Court passed in the L.P.A. no.319/2015.

And

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b) Pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. We have heard learned counsels appearing on behalf of the parties and looked into the facts and circumstances of the case.

3. Present petition has been filed alleging non-compliance and wilful disobedience of the order dated 2nd May, 2019 (Annexure P-1 to the memo of this contempt petition), passed by the Division Bench of this Court in LPA 319/2015. Para 5 of the aforesaid order reads as under:

"5. In light of the above observations, learned counsel appearing for the DoE undertakes that the matter of sanction of grant-in-aid to the Primary Section of the Appellant School will be considered afresh by the DoE. The fresh decision of the DoE, uninfluenced by the earlier decision and in light of the above observations of this Court, be taken after giving a hearing to the School and getting any clarification/information or documents that may be necessary for such purpose. The fresh decision be taken not later than 30th June, 2019 and communicated to the Appellant School not later than one week thereafter. A copy of order be placed before this Court on the next date."

(emphasis supplied)

4. According to the Petitioners, there is a violation of the order passed by this Court inasmuch as a fresh decision was to be taken by Respondent No.1 not later than 30.06.2019, however, the decision was taken on 26.08.2019. It is also contended by learned counsel for the Petitioners that *vide* order dated 26.08.2019, the proposal for Grant-in-Aid has been rejected on several grounds and reading of the order would reflect that the grounds for rejection are more or less the same as in the earlier order and thus, the rejection order is in the teeth of the directions of the Division Bench, that the fresh decision of the Directorate of Education (DOE) would be uninfluenced by its earlier decision.

5. We have carefully perused the order dated 02.05.2019, passed by the Division Bench in LPA No.319/2015. Learned counsel appearing for DOE had undertaken before the Division Bench that the matter of sanction of Grant-in-Aid to the Primary Section of the concerned School will be considered afresh by DOE. The Division Bench had directed DOE to take a fresh decision, uninfluenced by the earlier decision and in the light of the observations of the Court, after giving a hearing to the School. It was further directed that the fresh decision would be taken not later than 30.06.2019 and communicated to the School not later than one week thereafter.

6. It is conceded by the learned counsel for the Petitioners that DOE has passed the order on 26.08.2019 *albeit* beyond the time granted by the Court. As per the directions given by the Division Bench, Respondent No.1 herein/DOE was to take a decision not later than 30.06.2019, whereas Respondent No.1 has taken a decision on 26.08.2019. No doubt, there is some delay by the concerned Respondent in complying with the directions of the Division Bench. However, it cannot be said that there is a wilful disobedience or a deliberate delay on the part of Respondent No.1 to pass a speaking order, so as to hold the concerned Respondent guilty of contempt.

7. Learned counsels appearing for the Petitioners as well as Respondents No.2 and 3/School sought to assail the order dated 26.08.2019 on merits and argued that DOE has wrongly rejected the proposal of the School seeking Grant-in-Aid for its Primary classes. It was urged that in the order dated 02.05.2019, the Division Bench had clearly expressed non-satisfaction with respect to the order dated 26.02.2019, passed by DOE, rejecting the claim for Grant-in-Aid and held that the order was not passed on valid grounds, especially keeping in view the fact that the School had been functioning in

the area since 1994 and the Senior Secondary Section was already receiving Grant-in-Aid. Despite the said observations, the DOE has again rejected the proposal for Grant-in-Aid on almost similar grounds as earlier.

8. Insofar as the challenge to the order dated 26.08.2019, on merits, is concerned, suffice would it be to state that in case the Petitioners are aggrieved by the said order, it is open to them to challenge the same in an appropriate Forum, in accordance with law. In a contempt petition, this Court cannot delve into the merits of the order and adjudicate the legality or otherwise of the same regarding the Grant-in-Aid to Respondent No.2.

9. Accordingly, the contempt petition deserves to be dismissed, granting liberty, however, to the Petitioners to assail the order dated 26.08.2019, on merits, before the appropriate Forum, if so advised, in accordance with law.

10. It is made clear that this Court has not expressed any opinion on the merits of the case, i.e. on the merit of the order dated 26th August, 2019, passed by Respondent No.1. Needless to state that as and when the order dated 26th August, 2019 is challenged before the appropriate forum, the same shall be decided in accordance with law.

11. With the aforesaid observations, the contempt petition is dismissed, with liberty as aforesaid.

CHIEF JUSTICE

JYOTI SINGH, J

OCTOBER 4, 2021/ns