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

<u>Date of Decision</u>: 11.09.2023

\+ **<u>CONT.CAS(C) 559/2020, CM APPL. 45215/2022, CM APPL. 46492/2023</u>**

SHEFALI KHULLER AHUJA ..... Petitioner

Through: Mr. M. Sufian Siddiqui, Advocate alongwith Mr. Rakesh Bhugra and Ms. Alya Veronica, Advocates

versus

DHARMENDRA & ANR. ..... Respondents

Through: Mr. Tushar Sannu, ASC for NDMC
Mr. Mukul Singh, CGSC for R-2/UOI
Ms. Teena Srivastava, Ms. Vibha Mahajan, Advocate for Non-applicant

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

<u>J U D G E M E N T</u>

<u>JASMEET SINGH, J (*ORAL*)</u>

1. This is a petition seeking initiation of contempt proceedings for violation of the order dated 24.01.2020 passed in W.P.(C) 914/2020.

2. The petitioner is an ex-employee of the Wonderland School and filed a PIL.

3. The Division Bench in paras 3 and 4 of the order dated 24.01.2020 recorded as under:

> **“***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."

4. Mr. Sannu, learned counsel who appears on behalf of NDMC has drawn my attention to an additional affidavit dated 22.08.2023 and more particularly paras 4, 5 and 6 which read as under:

"*4. That it is respectfully submitted that Wonderland School (which was arrayed as Respondent No. 3 in W.P. No. 914/2020) has deposited the following amounts up till now with Respondent No. 1/NDMC as per the License Agreement dated 29.06.2012:*

a. ***Fixed License Fee*** *(@ Rs. 6,00,000/- per annum w.e.f. 01.04.2013 to be increased 15% after every three years)*

SI No.	*Financial Year*	*Amount of Fixed License Fee due (In Rupees)*	*Amount Paid with interest of late payment (In Rupees)*

1.	*01-07-12 to 31.03.13*	*0*	*450000*
2.	*2013-14*	*600000*	*600000*
3.	*2014-15*	*600000*	*600000*
4.	*2015-16*	*600000*	*600000*
5.	*2016-17*	*690000*	*690000*
6.	*2017-18*	*690000*	*690000*
7.	*2018-19*	*690000*	*690000*
8.	*2019-20*	*793500*	*793500*
9.	*2020-21*	*793500*	*0*
10.	*2021-22*	*793500*	*0*
11.	*2022-23*	*912525*	*914807*
12.	*2023-24*	*912525*	*1695413*
		8075550	***7723720***

b. ***Variable License Fee*** *(35% of the annual gross receipt of the fee generated from operation and management of the school)*

SI No.	*Financial Year*	*Amount Paid with interest of late payment (In Rupees)*
1.	*01-07-12 to 31-03-13*	*0*
2.	*2013-14*	*0*
3.	*2014-15*	*824734*
4.	*2015-16*	*950000*
5.	*2016-17*	*1096760*
6.	*2017-18*	*1071088*
7.	*2018-19*	*1086313*
8.	*2019-20*	*1348842*
9.	*2020-21*	*510709*
10.	*2021-22*	*885665*
11.	*2022-23*	*224245*
12.	*2023-24*	*1169280*
		9167636

Copy of the Licence Agreement between Respondent No. 1/NDMC and Ms. All India Marigold Child Welfare Education Society dated 29.06.2012 is annexed as Annexure R-1/A.

5. That the quantum of above variable License Fee depends on the revenue generated from operation and management of the school. Hence, amount payable by Wonderland School to the Respondent Na 1 cannot be determined in advance. However, it is payable by Wonderland School to Respondent No.1by 30th June every year after closure of financial year on the basis of un-audited accounts and the differences, if any, are paid by 31st October after accounts have been audited. Copy of the letter addressed by the Wonderland School to Social Education Department along with the profit-loss statement for the period 01.04.22 to 31.03.23 is annexed as Annexure R-1/B

6. The accounts of Wonderland School have been audited by the CAG empaneled auditor Ms Vimal Dixit & Associates for the financial year 2013-14, 2014-15 2015-16, 2016-17, 2017-18, 2018-19, and 2019-20. As a result of the audit, all the amounts of Variable License Fee as payable by Wonderland School have also been received by Respondent No. 1."

5. The Hon'ble Division Bench in the order of 24.01.2023 had directed the respondent to conduct inspection and audit and ensure implementation of Right to Free Education. The affidavit filed by the respondent NDMC suggests that Wonderland School is complying with all its obligations and the respondent authority have audited the accounts and are satisfied with the accounts as well as the licence fee deposited by the Wonderland School with the respondent NDMC.

6. The petitioner who is a disgruntled employee in a contempt proceeding cannot ask the Court to go into each and every detail as the contempt is purely an issue between the Court and the contemnor. The Supreme Court in judgement titled as "***Biman Basu v. Kallol Guha Thakurta***" [(2010) 8 SCC 673] opined that:-

25. ....In D.N. Taneja v. Bhajan Lal [(1988) 3 SCC 26 : 1988 SCC (Cri) 546] this Court observed that: (SCC p. 32, para 12)

> *"12. ... A contempt is a matter between the court and the alleged contemner. Any person who moves the machinery of the court for contempt only brings to the notice of the court certain facts constituting contempt of court. After furnishing such information he may still assist the court, but it must always be borne in mind that in a contempt proceeding there are only two parties, namely, the court and the contemner."*
> ...."

7. Even though the respondent has not adverted on the aspect of Right to Free Education, once the respondent is satisfied with the performance and compliances of the school and the school is complying with the same, this Court has no reason to doubt the action of the respondent. Even assuming that the petitioner has not complied with the Right to Free Education aspect, the respondent is always at liberty to take appropriate action in accordance with law.

8. Mr. Siddiqui, learned counsel for the petitioner has drawn my attention to a fee receipt showing Rs. 1,35,000/- for 6 months from April 2019 to September 2019 to urge that the Wonderland school is manipulating its account.

9. Once the respondent has filed an affidavit saying that the accounts have been audited by CAG empanelled auditor, I again have no reason to doubt the same.

10. For the aforesaid reasons, I am satisfied that the order dated 24.01.2020 has been complied in letter, spirit and intent by the respondent and hence the contempt petition is dismissed.

JASMEET SINGH, J

SEPTEMBER 11, 2023/DM