



\$~77

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

+ **CONT.CAS(C) 361/2024 & CM APPL. 13318/2024**

RAISINA BENGALI SCHOOL

..... Petitioner

Through: Mr. Anukul Raj with Ms. Nikita Raj,
Mr. Tushar Bhalla and Mr. Pratik
Sharma, Advocates.
(M): 9811363727
Email: anukulraj@gmail.com.

versus

SHRI BHUPESH CHAUDHARY AND ORS.

..... Respondents

Through: Ms. Mehak Nakra, ASC with
Mr. Srikant Misra and Ms. Aditi
Kapoor, Advocates for respondent
nos. 1 to 4.
(M): 9899625603
Email: advmehaknakra@gmail.com

%

Date of Decision: 4th March, 2024

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

CM APPL. 13318/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.

CONT.CAS(C) 361/2024

3. The present petition has been filed alleging non-compliance of the directions as contained in the order dated 18th December, 2023 passed in



W.P. (C) No. 2682/2017. As per the said order, the respondents had been directed to grant clearance approval to the petitioner-school for direct recruitment within a period of eight weeks.

4. Learned counsel appearing for the petitioner submits that despite clear directions from this Court, the respondents have wilfully and deliberately not complied with the directions as passed in the order and have rejected the representation of the petitioner-school by stating that there are proceedings pending against the petitioner.

5. Learned counsel appearing for the petitioner-school submits that the proceedings pending before the Debt Recovery Tribunal (“DRT”) have no connection with the issue of clearance approval.

6. Per contra, learned counsel appearing for the respondents submits that a statement had been made by the respondents that the Directorate of Education (“DOE”) will consider the case of the petitioner on the basis of Circular dated 04th October, 2023 and decide the request of the petitioner-school for filling up the vacancies in the various posts. She further submits that the request of the petitioner has been rejected vide order dated 01st February, 2024. Thus, he submits that there is no cause for contempt against the respondents.

7. Having heard learned counsel for the parties, at the outset, this Court notes that by order dated 18th December, 2023 passed in *W.P. (C) No. 2682/2017*, following directions had been passed:-

“xxx xxx xxx

Mr. Raj submits that if approval is received for filling-up the vacancies within a reasonable time, the prayer made in the present petition would stand satisfied and the petitioner may be disposed-of on that basis.

Ms. Mehak Nakra, learned ASC (Civil) appearing for the



respondents submits that the DoE will act upon Circular dated 04.10.2023 and decide the petitioner school's request for approving the filling-up of various posts, as expeditiously as possible.

In the circumstances, the present petition is disposed-of, with a direction to the DoE to act upon Circular dated 04.10.2023; and grant requisite clearance to the petitioner school, as soon as possible, and in any event within 08 weeks from today.

The petition stands disposed-of in the above terms.

Pending applications, if any, also stand disposed-of."

(Emphasis Supplied)

8. Perusal of the aforesaid order shows that the respondents had made a statement that the DOE will act upon the Circular dated 04th October, 2023 and decide the request of the petitioner-school for approving the filling up of the vacancies against various posts, as expeditiously as possible. This Court notes the contention of learned counsel for the petitioner-school that the DOE was not to simply consider the request of the petitioner-school in terms of Circular dated 04th October, 2023, but there were categorical directions to the DOE to act upon the said Circular. On the other hand, it is the case of the respondent that the DOE had to consider the case of the petitioner in terms of the aforesaid circular and that there were no specific directions for granting clearance approval to the petitioner-school.

9. Considering the aforesaid submissions made by the parties, this Court is of the view that where more than one interpretation can be given to a Court's order, then benefit has to be given to the party against whom contempt is alleged. Thus, Supreme Court in the case of **Ram Kishan Versus Tarun Bajaj, (2014) 16 SCC 204** has held as follows:

"xxx xxx xxx

15. It is well-settled principle of law that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable. The effect and purport of the order is to be taken into consideration and the same must be read in its entirety. Therefore, the element of willingness is an indispensable



requirement to bring home the charge within the meaning of the Act. [See *Sushila Raje Holkar v. Anil Kak* [Sushila Raje Holkar v. Anil Kak, (2008) 14 SCC 392 : (2009) 2 SCC (L&S) 497] and *Three Cheers Entertainment (P) Ltd. v. CESC Ltd.* [Three Cheers Entertainment (P) Ltd. v. CESC Ltd., (2008) 16 SCC 592 : AIR 2009 SC 735]]
xxx xxx xxx”

(Emphasis Supplied)

10. Further, this Court notes that by order dated 01st February, 2024, the DOE has already rejected the case of the petitioner and the requisite permission has not been granted in terms of the Circular dated 04th October, 2023. This Court also notes that it is the clear submission by learned counsel for the petitioner that the rejection by the DOE is patently illegal, as the pendency of a case before the DRT has no bearing on the consideration of the case of the petitioner for granting the necessary approval for filling up the posts by direct recruitment.

11. Considering the aforesaid submissions made by learned counsel for the petitioner, the petitioner is granted liberty to challenge the order dated 01st February, 2024 issued by the DOE, in appropriate proceedings in accordance with law.

12. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MARCH 4, 2024

c