



2024:DHC:6059-DB



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

+ LPA 778/2024 & CAV 378/2024 AND CM APPLS. 45976-45977/2024

CENTRAL BOARD OF SECONDARY EDUCATIONAppellant
Through: Ms. Seema Dolo, Advocate.

versus

CHAND RAM PUBLIC SCHOOL & ORS.Respondents
Through: Mr. Rohit Sharma, Advocate for
respondent No.1.
Mr. Amit Gupta, Advocate with Ms.
Perna Dhall, Ms. Avshreya Pratap
Rudy, Advocate for UOI.
Ms. Hetu Arora Sethi and Mr. Arjun
Basra, Advocate for respondent No.3.

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Date of Decision: 12th August, 2024**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, ACJ : (ORAL)**

1. Present appeal has been filed challenging the judgment dated 22nd May, 2024 passed by the learned Single Judge in ***W.P.(C) 6607/2024 Chand Ram Public School vs. Union of India & Ors.***, wherein the orders issued by the appellant-CBSE dated 22nd March, 2024 and 07th May, 2024 withdrawing provisional affiliation of the respondent No.1-school were set aside.

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2. Learned counsel for the appellant states that the learned Single Judge has erroneously relied upon his own judgment dated 10th April, 2024 in ***Mount Columbus School vs. CBSE, W.P.(C) 2956/2020*** for holding that the order withdrawing provisional affiliation could not have been passed without affording a personal hearing to the respondent.

3. She submits that this Division Bench in its judgment dated 16th July, 2024 in ***CBSE vs. Mount Columbus School & Ors. LPA No. 568/2024*** has held that the finding in the aforesaid judgment on the issue of 'grant of personal hearing before decision of withdrawal of affiliation is taken', is incorrect in law. She further submits that the learned Single Judge failed to appreciate that it is settled law that personal hearing cannot be claimed as a matter of right and it is incumbent upon the affected person to demonstrate the prejudice caused to him in the absence of the same. She also submits that it is settled law that no prejudice is caused to a person complaining of a breach of natural justice if the said person does not dispute the case against him.

4. This Court in the judgment dated 16th July, 2024 in ***CBSE vs. Mount Columbus School & Ors. LPA No. 568/2024*** has clarified the aspect of personal hearing being provided before an adverse order is passed against a party. The relevant portion of the Division Bench judgment is extracted herein below:-

“6. When principle of natural justice requires an opportunity to be heard before an adverse order is passed, it does not in all circumstances mean a personal hearing. The requirement is complied with by affording an opportunity to the person concerned to present his case before such authority who is expected to apply its judicial mind to the issues involved.

7. The Supreme Court in Shiv Sagar Tiwari vs. Union of India & Ors., (1997) 1 SCC 444 has held that natural justice is after all “no unruly horse,



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no lurking land mine” as characteristically stated by Krishna Iyer, J. in Chairman, Board of Mining Examination and Chief Inspector of Mines v. Ramjee (1977) 2 SCC 256.

8. *Keeping in view the aforesaid mandate of law, this Court is of the view that the observation/finding of the learned Single Judge that the compliance with the audi alteram partem requirement is non-negotiable and any order which has civil consequence has to be preceded by an oral hearing is not correct in the facts of the present case. “*

5. Keeping in view the aforesaid, the impugned judgment dated 22nd May, 2024 passed in ***W.P.(C) 6607/2024, Chand Ram Public School vs. Union of India & Ors.***, is set aside and the matter is remanded to the learned Single Judge for a fresh decision. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open. Accordingly, the present appeal and applications stand disposed of.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 12, 2024

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