



\$~68

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

+ **W.P.(C) 16636/2023**

SATYENDRA KUMAR

..... Petitioner

Through: Mr. Akshit Tomar, Advocate with
petitioner in person

versus

**MANAGING COMMITTEE OF MAHARAJA AGARSAIN
PUBLIC SCHOOL AND ANR.**

..... Respondents

Through: Mr. A. K. Singla, Sr. Advocate with
Mr. Akshit Sachdeva, Advocate for
R-1
Ms. Latika Choudhary, Advocate for
R-2

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

19.01.2024

%

(The proceeding has been conducted through Hybrid Mode)

CM APPL. 3414/2024 (Seeking recall of order dated 09.01.2024)

1. This is an application filed on behalf of appellant/respondent No.1 under Section 151 CPC seeking recall of the order dated 09.01.2024.
2. Learned counsel submits that the applicant/respondent No.1-school submits that non-applicant / petitioner is a chronic litigant and has filed various cases before the Delhi School Tribunal as also before this Court. He submits that the order which was passed on 09.01.2024 by this Court directing the DOE/respondent No.3 to treat the present

W.P.(C) 16636/2023

1



writ petition as a representation and dispose of in accordance with law may not be entirely correct in the facts of the present case.

3. Learned counsel submits that the issue in respect of prayer (i) of the writ petition mainly issuance of a writ of mandamus to initiate the proceedings of imprisonment of Manager of the respondent school, under Section 27(a) of DSEA, 1973 for non-compliance of Order passed by the learned DST in Appeal No.75/2017 filed by the petitioner is concerned, according to the learned counsel it has been already complied with and as such, the jurisdiction of considering any representation on this particular issue would not be within the purview of or jurisdiction of the Directorate of Education.

4. Learned counsel submits that the petitioner had already filed the writ petition before this Court bearing number W.P.(C) 11728/2022 for order of compliance under Rule 121 of DSER, 1973 and another Appeal bearing No. 53/2022 (DST) challenging the termination of the petitioner, which are pending consideration. In view of above facts, learned counsel submits that the order directing the present writ petition be treated as representation may not be appropriate and ought to be recalled.

5. This Court has considered the arguments of learned counsel appearing for the applicants /respondent Nos. 1 and 2. So far as the issue of writ petition pending before this Court viz., W.P.(C) 11728/2022 and Appeal. No. 53/2022 before DST, are



concerned, learned counsel for non-applicant/ petitioners does not deny their pendency.

6. This Court has also perused the order dated 09.01.2024 passed by this Court. In para 9 of the said order, this Court had directed the Competent Authority to afford an opportunity of personal hearing to the non-applicant / petitioner as also the applicant/respondent No.1 and thereafter dispose of the representation accordingly.

7. Learned counsel for the non-applicant/ petitioner submits that the writ petition as also the appeal before the tribunal are on different issue and has bearing on the present petition.

8. The prayer made by the writ petitioner in the present petition are as under:-

“I. Issue a writ of mandamus or any other appropriate writ to initiate the proceedings of imprisonment of Manager of the respondent school, under Section 27(a) of DSEA, for non-compliance of Order passed by the Ld. DST in Appeal No.75/2017 filed by the petitioner.

II. Issue a writ of mandamus or any other appropriate writ to take over the management of the respondent no.1 school for violating the provisions of the Delhi School Education Act & Rules 1973.

III. Any other or further writ/ direction that may be deemed just and proper in the facts & circumstances of the case may also be passed by the Hon'ble High Court in favour of the petitioner and against the respondents in the interest of justice and equity.”



2. So far as the prayer (i) is concerned, learned counsel appearing for the applicant /respondent has submitted that the same is no more available with the Directorate of Education to decide inasmuch the said issue is already in challenge by the non-applicant/petitioner before this Court in a writ petition. As such, this Court is of the opinion that so far as the prayer (i) is concerned, that could not form a part of the representation as was directed by this Court *vide* the order dated 09.01.2024. As such, the order is modified to the extent that consideration of present writ petition as a representation will be restricted, only to the prayer (ii) which is as under:-

“II. Issue a writ of mandamus or any other appropriate writ to take over the management of the respondent no.1 school for violating the provisions of the Delhi School Education Act & Rules 1973.”

3. Apart from affording an opportunity to the applicant/respondent No.1 of personal hearing, the Competent Authority shall also grant applicant/ respondent No.1 the liberty to file written objections.

4. In view of above, the application is disposed of with the aforesaid terms, however, the remaining portion of order dated 09.01.2024 shall remain untouched.

TUSHAR RAO GEDELA, J

JANUARY 19, 2024/ms