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

\+ W.P.(C) 8205/2016, CM APPLs. 38047/2021, 2808/2022 and 18470/2023

GURU HARKRISHAN PUBLIC SCHOOL STAFF WELFARE ASSOCIATION .....Petitioner

Through: Mr. J.S. Bedi, Advocate

versus

THE GOVT. OF NCT OF DELHI & ORS .....Respondents

Through: Mr. Satyakam, Additional Standing Counsel for GNCTD with Mr. Archit Kaushik, Advocate for GNCTD.

Mr. Yeeshu Jain, Additional Standing Counsel with Ms. Jyoti Tyagi and Mr. Hitanshu Mishra, Advocates for DoE.

Mr. Abinash Kumar Mishra with Ms. Avneet Kaur, Advocates for R2 and R3.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **09.09.2024**

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

> *"a) Issue a writ of mandamus, order or direction, declaring the Resolution No. 6A dated 26.2.2016 passed by the Respondent No.3 (Annexure-P/1) as illegal, unlawful and violative of Rules 172 to 178 of the Delhi School Education Rules 1973 and consequently quash the direction passed by the Respondent No. 2 vide email dated 31.3.2016 (Annexure-P/3) directing all the schools to deposit the fee collected from students in a centralized fee account bearing number 00131000915431, Punjab & Sindh Bank, H-Block, Connaught Place, New Delhi which is being run and managed by Respondent No.2 & 3;*

b) Issue a writ of mandamus, order or direction, by directing the Respondent No. 1 to take action against the Respondent No. 2 & 3 or the managing committee of all the 12 schools run by the Respondent No.2 for violating the Rules 172 to 178 of the Delhi School Education Rules 1973;

c) Issue a writ of mandamus, order or direction, by directing the Respondent No. 1 to conduct an audit of each and every school run by the Respondent No. 2 & 3 through a competent authority and submit the same before this Hon'ble Court;"

2. Insofar as prayer (a) is concerned, Mr. Abinash Kumar Mishra, learned counsel appearing for Respondents No.2 and 3/Guru Harkrishan Public School ('School'), at the outset, points out that on 17.09.2019, a statement was made on behalf of the Petitioner that prayer (a) has become infructuous and therefore, no argument can be made with respect to this relief by the Petitioner. In view of this, Mr. J.S. Bedi, learned counsel for the Petitioner fairly submits that he will not press prayer (a).

3. Learned counsel for the Petitioner argues that the School is continuing to maintain centralised fee account and in fact, the amount advanced from Loni Branch to the tune of Rs.6 crores has also not been recouped, a fact evident from the inspection report given by the Directorate of Education (DoE) and therefore, DoE be directed to take action against the School for violating Rules 172 to 178 of Delhi School Education Act and Rules, 1973 (DSEAR). Rule 172 provides that no fee, contribution or other charges shall be collected from any student by trust or society running any recognised school. The School runs 12 private recognised unaided minority schools and Respondents No. 2 and 3 not only collecting the school fee but also other charges such as development fee, activity fee, computer fee etc. Rule 176 provides that income derived from collections for specific purposes shall be spent only for such purpose but the School is charging fees under one head and not utilising it for the said purpose.

4. Ms. Jyoti Tyagi, learned counsel appearing on behalf of DoE submits that a short has been affidavit filed by DoE detailing the irregularities found in the School upon inspection and direction was issued to the School that the fee should not be deposited in the society account.

5. Mr. Mishra, submits that the School is compliant with all the provisions of DSEAR including Rules 172 to 178 thereof. It is submitted that in CM APPL. No.18470/2023, it is clearly stated that the system of Centralized Fee Account has been discontinued since 20.03.2019. It is further brought forth that as per the available data, the total amount received in Centralized Fee Account when it was being utilized was Rs.347,64,58,822/- whereas the total amount sent to 12 GHP Schools from the said Account was Rs.360,68,43,533/- and till 2019, Rs.15,50,00,000/- was paid by or through DSGMC in the said account for meeting the shortfall of the requirements of the Schools. Petitioner has intentionally concealed the information that *albeit* an amount of Rs.40,82,30,925/- was additionally contributed by 4 GHP schools, the entire amount was used for paying the salaries etc. to the employees of other 8 GHP schools and this figure was to the tune of Rs.53,86,15,737/- and the shortfall was met by DSGMC through payment of Rs.15.50 crores. It is further stated that the amounts contributed by the schools in the Centralized Fee Account were used only for the benefit of the schools and even after 2019, DSGMC contributed an additional amount of Rs.94,91,80,179/- thereby making the total contribution of DSGMC as Rs.110,41,80,179/- and even presently, payments are being made to implement the recommendations of the Pay Commissions.

6. Mr. Mishra further submits that as far as the Loni Branch is concerned, a sum of Rs.4,91,65,860/- as per school records has been sent by

DSGMC and as per his instructions, the loan has been possibly cleared. It is also submitted that after the judgment of this Court in ***Shikha Sharma v. Guru Harkrishan Public School and Others, 2021 SCC OnLine Del 5011***, benefits of 6th and 7th CPC were required to be disbursed to the employees of GHP Schools along with their retiral benefits and money was utilized to make these payments and there is no illegality in utilization of funds by the School and the writ petition deserves to be dismissed.

7. In view of the stand taken by the School with regard to utilization of the funds as also the statement that Centralized Fee Account has been discontinued since 2019, at this stage, I am of the opinion that no further order is required to be passed in the present writ petition. Court is also apprised that Auditors have been appointed pursuant to orders passed by this Court in a batch of contempt petitions and the funds of the School including the payments that are being made to the employees etc. are being regulated.

8. Needless to state that if any further grievance arises, Petitioner will be at liberty to take recourse to legal remedies, if so advised.

9. Writ petition along with pending applications stands disposed of.

JYOTI SINGH, J

SEPTEMBER 09, 2024/kks/shivam