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

Date of decision: 5th December, 2025.

+ LPA 662/2025, CM APPL. 67807/2025 & CM APPL. 67808/2025

NATIONAL BAL BHAWAN & ANR.Appellant

Through: Mr. S. Rajappa, Mr. R. Gowri Shankar
and Ms. G Ghivyasri, Advocates.

Versus

KHAZAN CHAND & ORS.Respondents

Through: Mr. Nitinja Chaudhary, CGSC with
Mr. Rahul Mourya, Advocate for
R-2/UOI.

Mr. Radha Mohan Sharma, Advocate
alongwith R-1 in person.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

JUDGMENT

Per DINESH MEHTA, J. (ORAL)

1. The instant appeal is directed against order passed by the learned Single Judge dated 02.08.2024 so also order passed on 26.09.2025 in Review Petition no. 376/2025.

2. Mr. S. Rajappa, learned counsel for the appellant-National Bal Bhawan ('NBB'), a society registered under the Societies Registration Act, 1860, which runs the school, took the Court through the backdrop facts and submitted that by way of the order dated 02.08.2024, learned Single Judge allowed the writ petition being W.P.(C) No.8711/2007 filed by the respondents no.1 and held that the disciplinary proceedings and the order of



dismissal passed by the appellant-society dated 29.08.2006 was vitiated because of the element of bias.

3. While maintaining that when the respondent no.1, who was working as station master with the appellant-society, took a plea of bias against the Ex-Director of the appellant-society namely Dr. Madhu Pant (Proforma respondent no.3 herein), the appellant-society had taken a plea of Doctrine of Necessity but the same was not at all considered by the learned Single Judge.

4. Learned counsel submitted that an appeal against the said order dated 02.08.2024 being LPA 1068/2024 was filed and such ground was raised before the Division Bench, however, since such plea was not seemingly taken before learned Single Judge, the Division Bench refused to consider such argument for which, the appellant stood advised to file Review Petition and therefore, he sought leave to withdraw the appeal with a liberty to file a review application. He took the Court through the order which came to be passed on 14.11.2024. Said order dated 14.11.2024 runs as infra:

"1. After some hearing, Mr. Rajappa, learned Counsel for the appellants, seeks leave to withdraw this appeal as he submits that he intends to take other remedies available in law.

2. We do not express any opinion on whether any remedy is available to the appellants in law or not. Nonetheless, in view of request made, the appeal is disposed of as withdrawn."

5. Learned counsel submitted that after the abovereferred appeal (LPA no. 1068/2024) being withdrawn, the appellants preferred a Review Petition being Review Petition no. 376/2025, and submitted before learned Single Judge that the plea of bias was taken, which has not been considered; the learned Single Judge however, dismissed the said Review Petition. He added that for the dismay of the appellant, the argument or contention regarding



Doctrine of Necessity was not even noticed much less considered.

6. The order dated 26.09.2025 passed in above referred Review Petition reads thus:

“7. This review petition is filed on behalf of the Review Petitioners under Article 226 of the Constitution of India read with Section 114 CPC for review of judgment dated 02.08.2024 passed by this Court.

8. I have heard Mr. S. Rajappa, learned counsel for the Review Petitioners and perused the contents of the petition. Review Petitioners have not been able to make out a case of error apparent on the face of the judgment and the review petition is in the nature of an appeal. No ground to review the judgment dated 02.08.2024 is made out.

9. Review petition is dismissed along with pending applications.”

7. Learned counsel for appellants, then argued that faced with such a situation, the appellant-society was left with no remedy except to prefer the present Letters Patent Appeal challenging both the order dated 02.08.2024 so also the order dated 26.09.2025.

8. Before learned counsel for the appellant could begin the arguments on merit, learned counsel for the respondent no.1 raised an objection that neither the present appeal is maintainable nor the plea, which is being advanced viz. the Doctrine of Necessity is available to the appellants, for the first time at appellate stage.

9. He submitted that before dilating upon the arguments advanced by the appellant, this Court has to bear in mind that the appellant had earlier also, preferred a Letters Patent Appeal (LPA no. 1068/2024), which was withdrawn without reserving any liberty to file a fresh appeal. And that the Doctrine of Necessity which plea is dependent upon necessary factual foundation was not raised before the Writ Court.

10. In other words, he submitted that if the present appeal is to be



considered, the same, at best, can be considered against the order dated 26.09.2025, whereby appellants' Review Petition (Review Petition no. 376/2025) was rejected.

11. Heard learned counsel for the parties and perused the relevant orders.

12. A perusal of the detailed order of learned Single Judge dated 02.08.2024 reveals that the respondent's writ petition was allowed essentially on the ground of element of bias. The pleas or pleading (if any) about the Doctrine of Necessity has neither been noticed nor considered.

13. Without making any comment over the applicability of Doctrine of Necessity, which usually is an obvious counter argument to the Doctrine of Bias, we are of the view that since such contention was not noticed by learned Single Judge (may or may not be argued by the appellant society) and when the matter came up for consideration before the Division Bench, the appellant's appeal was disposed of as withdrawn with observation as noted above, we being a Bench of co-equal strength cannot take a view contrary to what was taken by the Division Bench on 14.11.2024, as the same would be against judicial discipline and propriety.

14. It is not in dispute that after disposal of the above referred appeal on 14.11.2024, the appellant did file a Review Petition, purportedly arguing on the basis Doctrine of Necessity, which plea has not been recorded by the learned Single Judge and the Review Petition has been rejected per viam order dated 26.09.2025.

15. According to us, our limited jurisdiction is confined to test the correctness and legality of the order of learned Single Judge dated 26.09.2025, whereby the appellant's Review Petition has been rejected.



16. Though the argument regarding Doctrine of Necessity was seemingly taken by the appellant, as is evident from the memo of Review Petition, we are of the view that even if we find some substance in such argument, we are afraid, we cannot consider and pronounce upon the same. Because, the Division Bench having heard appellants' LPA (being LPA no. 1068/2024) on previous occasion had disposed of the same. According to us, it would not be proper on our part to dilate upon such issue and take a view contrary to what had been taken by the Division Bench, while disposing of appellant's appeal on 14.11.2024.

17. We, therefore, rest the issue here by noticing that following arguments were advanced by the appellants:

- i) That simply because Dr. Madhu Pant, had contractual engagement, as the Director, discharge of her duties as a Director does not get obliterated.
- ii) Dr. Madhu Pant, who was working as a Director at the appellant-society, was the only higher authority to function as a disciplinary authority and since there was no other officer except her, she and she alone could be the Disciplinary Authority. Because the other authority, namely Chairman, was the Appellate Authority.
- iii) Doctrine of Necessity being counter plea of the plea of Bias, ought to have been considered by the learned Single Judge, *suo motu*, as a legal principle, even if not argued.

18. While noticing that these arguments or contentions were raised, we dispose of the present appeal in order to maintain judicial discipline and also in a bid to give quietus to the litigation, so far as this Court is concerned.



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19. With the disposal of the present appeal, all interlocutory applications also stand disposed of.

DINESH MEHTA, J.

RAJNEESH KUMAR GUPTA, J.

DECEMBER 5, 2025/nk