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

\+ W.P.(C) 4992/2012

THE DELHI PUBLIC SCHOOL SOCIETY .....Petitioner

Through: Mr. Puneet Mittal, Sr. Adv. with Mr. R.P. Singh, Ms. Sakshi Mendiratta, Mr. Vibhor Kush and Mr. Sameer Vatts, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS .....Respondents

Through: Ms. Sunieta Ojha, Ms. Vasudha Priyansha and Ms. Divita Vashisht Advs. for MCD.

**CORAM:**
**HON'BLE MR. JUSTICE YASHWANT VARMA**
**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

**ORDER**

% **19.03.2025**

1. This writ petition as originally preferred had sought the following reliefs:-

> "(a) Issue an appropriate Writ order or direction in the like nature holding that there is no efficacious alternative remedy available to the petitioner against the impugned order dated 11.7.2012 (ANNEXURE P-2);
>
> (b) Issue an appropriate Writ, Order or direction setting aside the impugned assessment order dated 11.07.2012 (ANNEXURE P-2) the same having been passed against the Scheme of the Unit Area Method as propounded by the respondent & against the principles of natural justice, equity & fair play;
>
> (c) Issue a Writ of certiorari or any other suitable Writ Order or direction in the like nature quashing the impugned assessment order dated 11.07.2012 (ANNEXURE P-2) passed by the Commissioner of the respondent MCD in respect of Delhi Public School, Mathura

Road, New Delhi;

(d) For issuance of an appropriate writ/ order or direction in the nature thereof for a declaration to the effect that the Act 6 of 2003 - the Delhi Municipal Corporation (Amendment) Act 2003 and also the Delhi [Municipal Corporation (Property Taxes) Bye-laws, 2004 are unconstitutional, ultravires and void abinitio.

(e) For issuance of a writ of mandamus/prohibition or any other writ, order or direction in the nature thereof prohibiting and restraining the respondents from either taking any further steps or enforcing/implementing the Delhi Act no. 6, 2003 - the Delhi Municipal Corporation (Amendment) Act, 2003 and the Delhi Municipal Corporation (Property Taxes) Bye-laws, 2004.

(f) Issue a Writ of Certiorari, or any other appropriate Writ, Order or Direction, setting aside and quashing the office order/notification dated 29.7.2004 and the Appendix thereto, insofar as the prescribed Use Factor for the Petitioner school is fixed at three, and in so far as any differentiation is being made merely on the basis of the fees being charged by schools;

(g) accept the petition and set aside the impugned assessment order dated 11.7.2012 (ANNEXURE P-2) holding the same to be without jurisdiction and nonest in the eyes of law;

(h) to hold that the proviso to section 169 (1) of the amended D.M.C. Act, 1957 and 170(b) of the D.M.C Act, 1957 both as unconstitutional and ultra vires the various Articles of the Constitution of India including Articles 14,19 & 21;

(i) Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, directing the Respondents to formulate a separate system for assessing the property tax to be paid by a non-profit educational institution;

(j) Restrain the Respondents from taking any coercive steps for the recovery of the property tax from the Petitioner at the Unit Rate Method until the disposal of the petition;

(k) Pass any other order/s that this Hon'ble Court deems fit in the interest of justice."

2. Although the primary cause for the challenge raised appears to have been the assessment order of 11 July 2012, the Court appears to have entertained the writ petition itself in light of the constitutional challenge which stood raised and which is reflected in reliefs (d), (e), (f) and (h). We are, however, today informed that those issues no

longer survive for consideration.

3. In view of the above, the only aspect which thus survives is the merits of the order of assessment as framed. Insofar as that is concerned, the Delhi Municipal Corporation Act, 1957 [‘**Act**’] provides an adequate and efficacious alternative remedy to the writ petitioner. We also bear in consideration the conceded fact that consequent to reliefs (d), (e), (f) and (h) no longer being relevant, the writ petition would no longer give rise to any jurisdictional issue and which would have warranted invocation of our extraordinary jurisdiction conferred by Article 226 of the Constitution.

4. In view of the aforesaid, we dispose of the petition leaving it open to the writ petitioner to pursue the alternative remedy as available in law. All rights and contentions of respective parties on merits are kept open.

5. We further direct the appellate authority to bear in mind the time that was spent by the writ petitioner while pursuing the present writ petition before this Court and which would thus be a relevant factor for the purposes of computing limitation and condonation of delay, if any.

6. Subject to the aforesaid, the writ petition shall stand disposed of.

**YASHWANT VARMA, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**MARCH 19, 2025/**RW