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

\+ LPA 97/2026, CM APPL. 13258/2026, CM APPL. 13259/2026, CM APPL. 13261/2026, CM APPL. 13262/2026 & CM APPL. 13272/2026

VIDYA BHAWAN GIRLS SENIOR SECONDARY SCHOOL THROUGH ITS MANAGER & ANR. .....Appellants

Through: Mr. Manish Gupta, Ms. Payal Singh, Ms. Shipra Bhardwaj and Mr. Vivek Chandrasekar, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI THROUGH ITS COMMISSIONER & ANR. .....Respondents

Through: Mr. Tushar Sannu, Mr. Pravin Bansal, Advocates for MCD.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **26.02.2026**

1. Heard the learned Counsel for the Parties.

2. This *intra court* Appeal seeks to challenge the order dated 20.02.2026 ("**Impugned Order**") passed by the learned Single Judge in W.P.(C) 2460/2026 ("**Writ Petition**"), proceedings whereof were instituted by the Appellant. By the Impugned Order, the learned Single Judge has overruled the objection regarding the maintainability of the Writ Petition on the ground of availability of an alternative remedy to file an appeal under the relevant provisions of the Delhi Municipal Corporation Act, 1957 ("**Act**") and has invited the response of the Respondents.

3. The learned Single Judge has also, while entertaining the Writ Petition, directed the Appellant to deposit a sum of ₹10,00,000/- within a period of four weeks from the date of the Impugned Order.

4. The contentions raised on behalf of the Appellant in this Appeal is that the Appellant Institutions is exempt from the property tax in view of the provisions of Section 115(1)(iv) of the Act, which provides specifically that vacant land and buildings used exclusively with the approval of the Municipal Corporation of Delhi ("**MCD**") for the purpose of public charity as specified in the Bye Laws or for the purpose of medical relief or education of the poor free of charge. It has been contended by the learned Counsel for the Appellant that in terms of the provisions contained in Clause 6 of the Delhi Municipal Corporation (Property Taxes) Bye Laws, 2004, the Appellant Institution, since has been providing education to the poor free of cost without any motive to earn profit, as such it is to be treated to be exempt from the property tax in terms of Section 115(1)(iv) of the Act.

5. Reliance has been placed by the learned Counsel for the Appellant on the judgment of Hon'ble Supreme Court in ***Municipal Corporation of Delhi v. Children Book Trust***, (1992) 3 SCC 390, to submit that in view of the law laid down in the said case, the Appellant Institution has to be treated to be exempt from being levied the property tax.

6. It has further been argued by the learned Counsel for the Appellant that the word occurring in Section 115(1)(iv) of the Act is 'approval' and not 'prior to' and, therefore, the exemption can be sought at any time, however, the issue relating to approval in terms of the requirements of Section 115(1)(iv) of the Act has not attained finality and in fact, according to him, the said issue has

not been even attended to by the MCD and, therefore, levying the property tax on the Appellant Institution is unlawful.

7. Mr. Sannu, the learned Counsel representing the MCD, however, draws our attention to Section 169 of the Act, which provides for a statutory remedy of appeal against the assessment / levy of property tax. He has also drawn our attention to Section 170 of the Act, which provides for the condition of right to appeal and according to sub clause (b) of Section 170 of the Act the remedy of appeal can be availed under Section 169 of the Act by the person aggrieved from the assessment / levy of property tax only on depositing the amount in dispute.

8. His submission is that the learned Single Judge has though not acceded to the submission made on behalf of MCD in respect of maintainability of the Writ Petition on the ground of availability of an alternative remedy, however, the learned Single Judge has only asked the Appellant Institution to deposit a sum of ₹10,00,000/-, which is not even one-tenth of the total amount in dispute, i.e., approximately ₹1.5 Crores.

9. Having heard the learned Counsel for the Parties, we are not inclined to entertain this Appeal on the following reasons:

i. The issue as to whether the Appellant Institution is entitled to seek exemption in terms of Section 115(1)(iv) of the Act is pending disposal in the proceedings of the Writ Petition before the learned Single Judge.

ii. By means of an order / letter dated 16.06.2025, the issue relating to the exemption under Section 115(1)(iv) of the Act appears to have been considered by the Assessor & Collector of the MCD, who has stated in the said order / letter that as per Section 115(1)(iv) of the Act, the Appellant Institution has not provided any documents regarding exemption from the property tax as per the provisions approved by the MCD. It has also been observed in the said order / letter that as per the MVC-I, III & IV, the use factor applicable for the Appellant Institution (Govt. aided) is 1 and, therefore, the Appellant is liable to pay the property tax. The said order / letter dated 16.06.2025 has, though, not been technically challenged by the Appellant in the Writ Petition pending before the learned Single Judge, however, the sum and substance of the pleadings of the Writ Petition is that the Appellant is seeking a kind of declaration that it is exempted from the property tax in terms of the provisions contained in Section 115(1)(iv) of the Act and since this issue is also pending consideration before the learned Single Judge, any observation made at this juncture in this Appeal would amount to prejudging the issue and, therefore, we refrain from the same.

iii. Had the Petition not been entertained by the learned Single Judge and the Appellant would have been relegated to take the course of the statutory / alternative remedy available under Section 169 of the Act, the Appellant would have been entertained by the Appellate Authority only on depositing the amount in dispute, i.e., approximately ₹1.5 Crores as against which, the learned Single Judge has only required the Appellant to make a deposit of ₹10,00,000/-. Thus, in the aforesaid view of the matter, we do not find any reasons to interfere with the directions issued by the learned Single Judge requiring the Appellant to make a deposit of ₹10,00,000/-.

10. At this juncture, the learned Counsel for the Appellants states that the Division Bench of this Court in ***Gagan Makkar & Another v. Union of India & Others***, Neutral Citation No. 2012: DCH:5104-DB, has held the proviso appended to Section 169(1) of the Act to be *ultra vires*. Our attention has also been drawn to the fact that against the said judgment, the MCD has preferred Civil Appeal No.18309/2017, however, no interim order is operating in the said matter. He has further drawn our attention to another judgment of a Coordinate Bench of this Court in ***Springdales School v. North Delhi Municipal Corporation & Ors.***, Neutral Citation No. 2017:DHC:766-DB, wherein one of the conclusions drawn is that in compliance with Section 170(b) of the Act, it would be sufficient if an assessee deposits one years' tax demand, wherever the corporation's assessments for multiple years are in issue and further that the Appellate Authority in such cases would decide the appeal for all years treating such deposit as sufficient compliance with Section 170(b) of the Act. The said judgment has also been challenged by the MCD before Hon'ble Supreme Court in Special Leave to Appeal (C) No.14452/2017 ("**SLP**") and the Hon'ble Supreme Court has passed an interim order dated 08.05.2017 providing therein that there shall be interim suspension of the operation of the direction contained in Sub-paragraph Nos. 2 and 3 of Paragraph 22 of the judgment referred by the Division Bench of this Court in ***Springdales School*** (supra). The said submission, however, does not in any manner help the cause of the Appellants in this matter for the reason that what has been declared to be *ultra vires* by the Division bench of this Court in ***Gagan Makkar*** (supra) is the proviso and not Section 169 which provides for the remedy of appeal against assessments. So far as the provisions of Section 170(b) of the Act is concerned, it was interpreted in a

particular manner by the Division Bench of this Court in ***Springdales School*** (supra), however, such interpretation has been stayed by the Supreme Court in the SLP filed by the MCD against the said judgment. In view of the aforesaid, it is not that the Appellants could not have filed the appeal against the assessment. The condition which would operate, once the Appellants would file the appeal, is that they will have to make the deposit of the amount in dispute in appeal before the appeal may be heard in terms of the requirement of Section 170(b) of the Act. The learned Single Judge by the Impugned Order has rejected the issue relating to the maintainability of the petition on the ground of availability of alternative statutory remedy of appeal, however, has only asked the Appellant to deposit a sum of ₹10,00,000/-. Such a condition imposed by the Impugned Order, in our opinion, does not suffer from any error or illegality considering the fact that had the Appellant chosen to file the appeal under Section 169 of the Act, they would have been required to make the deposit of the amount in dispute in appeal in terms of Section 169(1) of the Act.

11. For the reasons aforesaid, we do not find any good reason to interfere with the Impugned Order passed by the learned Single Judge.

12. Resultantly, the Appeal and the pending Applications stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

FEBRUARY 26, 2026
ap/gsr