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

\+ W.P.(C) 4359/2015

MAMRAM EDUCATIONAL SOCIETY & ANR .....Petitioners

Through: Mr. Harish Malhotra Sr. Adv. with Mr. Rajender Agarwal and Mr. Anoop Kumar Advs.

versus

DELHI DEVELOPMENT AUTHORITY .....Respondent

Through: Mr. Arun Birbal and Mr. Sanjay Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **04.05.2026**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:-

> *"(i) to issue a Writ of Certiorati or any other appropriate writ, order or direction in favour of the petitioners and against the respondent / DDA thereby setting aside the letter dated 31.,3.2015 whereby the respondent refused to pay interest on the refund amount of Rs. 6,33,22,500/-.*
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> *(ii) to issue a Writ of Mandamus or any other appropriate writ, order or direction in favour of the petitioners and against the respondent / DDA thereby directing the respondent / DDA to pay the interest @ 18% p.a., or at any other rate which this Hon'ble Court may deem fit, w.e.f.*

30.9.2012 till 31.3.2015 on the refunded amount of Rs. 6,33,22,500/-.

(iii) cost of the petition be also awarded in favour of the petitioners and against the respondent;...”

2. The brief facts of the case are that the petitioner Society is a registered educational society running schools. The respondent/DDA came out with a policy for auction of plots on leasehold basis for educational institutions and the petitioner applied for a plot under the said policy.

3. Pursuant thereto, the auction was conducted on 06.03.2026 and the petitioner’s bid of Rs. 26,62,00,000/- was accepted. The petitioner deposited an amount of Rs. 6,65,50,000/- being 25% of the bid amount with the bid form.

4. Since there were issues with allotment of the plot, the petitioner filed a writ petition bearing no. 9772-73/2006 seeking quashing of the auction. The said petition was disposed of *vide* Order dated 30.08.2012, and the operative paragraph Nos. 12 and 13 of the same read as under:-

> *“12. The writ petition does not disclose as to how petitioners had come into possession of the subject land without paying the balance auction bid amount and so, there is no question of petitioner being entitled to any protection from being dispossessed from the subject land. Since respondent has already allotted the land in question to the Government for construction of a school and vide order of 18th August, 2011, the Directorate of Education was permitted to construct a school building on the land in*

question, therefore, respondent can legitimately forfeit 5% of the earnest money and to refund the balance earnest money to petitioner within a period of four week or so.

13. Accordingly, auction in question in respect of the subject land, is held to be valid and the alternate relief sought is declined with a rider that petitioners shall be entitled to the refund of 95% of earnest money within the period stipulated above."

5. The aforesaid Order was challenged by the respondent/DDA in LPA No. 886/2012 which was rejected by the Hon'ble Division Bench *vide* Order dated 01.05.2014 holding that the Order of the learned single judge is passed on the basis of equity and in view of the peculiar facts of the aforementioned case. Against this rejection of its challenge, the respondent/DDA also preferred a SLP before the Hon'ble Supreme Court which was also dismissed *vide* Order dated 15.09.2014.

6. The amount of the petitioner was released by the respondent/DDA on 31.03.2015 and hence the petitioner in the writ petition seeks interest from 30.09.2012 (after four weeks of the judgment dated 30.08.2012) to 31.03.2015 that is till the date of the refund.

7. Mr. Birbal, learned counsel for the respondent, states that the respondent was challenging the Order dated 30.08.2012 by availing appropriate legal remedies. Additionally, he draws my attention to a letter dated 24.11.2014, wherein the respondent sought documents from the petitioner and according to the respondent, the same were submitted only on 23.03.2015, and the amount was released within one week thereafter the submission of relevant documents.

8. Mr. Malhotra, learned senior counsel appearing for the petitioner, disputes the letter or submission of any documents. However, from the facts narrated above, it is clear that on 30.08.2012 this Court directed the respondent to refund the 95 % of the earnest money within four weeks that is on or before 30.09.2012.

9. The respondent challenged the said judgment/order but did not succeed. There was no reason for the respondent to utilise the money of the petitioner for a period of about 2 ½ years. The money was lying in the custody of the respondent which has been utilized by the respondent at the cost and expense of the petitioner.

10. My attention has also rightly been drawn to the judgment of the Hon'ble Division Bench of this Court in the matter of ***Tata Infotech Ltd. v. Collector of Customs, 2004 SCC OnLine Del 138***, wherein the Division Bench in somewhat similar circumstances has held as under:-

> *"8. From the factual scenario, projected above, it is clear that the claim of the petitioner for refund of the amount realised by the respondent on encashment of bank guarantee is not contested. As noted above, the principal amount, so recovered, has been refunded to the petitioner on filing of the present writ petition. It is, therefore, axiomatic that after the appeal of the petitioner was allowed by the Tribunal in their favour, there was no justification whatsoever not to refund the excess customs duty recovered. As noted supra, even Board's circular dated 3 June 1998 clarifies that the refund is not to be withheld on the ground that an appeal is filed against the order giving relief to an assessee unless a stay order has been obtained.*

Admittedly in the present case no appeal had been preferred by the respondent. The bank guarantee was encashed by the respondent and, therefore, the petitioner was not under any obligation to obtain information with regard to the credit of the said amount in respondent's account or to find out whether the respondent had challenged Tribunal's order, as they were required to do vide respondent's letters dated 22 January 2000 and 22 December 2001. Yet the information sought was furnished along with documentary evidence as far back as on 7 March 2001 and again on 13 February 2002. More than one year elapsed even thereafter but the respondent did not think it fit to respond to petitioner's request. In the reply affidavit filed on behalf of the respondent, no answer is furnished as to why this inordinate delay in issue of refund order took place. Nothing has been brought on record by the respondent to explain this delay. It is, therefore, to be presumed that despite the Board's circular and Section 27A of the Act, the authorities concerned, in their own wisdom, did not think the matter to be so urgent as to immediately respond to petitioner's request and promptly issue the refund order. Nonetheless, it shows a disdainful and recalcitrant attitude of the respondent.

9. Under the circumstances, we are of the considered view that in the present case, the respondent has withheld the refund of Rs. 7,08,050/-, which became due to the petitioner on the passing of the order by the Tribunal on 21 December 1999, *without any rhyme or reason and, therefore, they are liable to pay interest to the petitioner.*

10. Resultantly, the writ petition is allowed; rule is made absolute and the respondent is directed to pay to the petitioner simple interest at the rate of 12% per annum on the afore-mentioned amount of refund for the period from the date of the order of the Tribunal till the date of the actual payment of the principal amount. The interest amount shall be paid within a period of four weeks from today. The petitioner shall also been

11. A perusal of the aforesaid factual scenario as well as the judgment clearly demonstrates that there is no reason for the respondent to not to have refunded the money to the petitioner and/or without prejudice to the rights deposited the same with the Registrar General of this Court.

12. My attention has been also been drawn to Section 34(2) of the CPC, 1908, by the learned counsel for the respondent to support his contention. However, I am of the view that the Section 34(2) will not be applicable as in the present petition, the petitioner is not seeking enforcement of any decree but is seeking relief against the unjustified withholding of amount of the petitioner, which was directed to be released in favour of the petitioner pursuant to the judgment of the Court.

13. Mr. Malhotra, learned senior counsel, on instructions states that the petitioner has no objection if the computation of amount of interest is restricted to the extent of accrual till 24.11.2014, without admitting that the said letter dated 24.11.2014 was received.

14. He also restricts his prayer only to the extent of seeking grant of

interest and gives up all other prayers.

15. For the said reasons, it is directed that the amount of Rs. 6,33,22,500/- shall be deemed to carry an interest of 9 % per annum from 30.09.2012 till 23.11.2014 and accordingly the computed amount shall be released by way of a Demand Draft in favour of the petitioner within four weeks from today failing which the amount shall carry interest at the rate of 12 % per annum.

16. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

MAY 4, 2026/NG