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

+ **W.P.(C) 11382/2017 & CM APPL. 4873/2018 & 23585/2019**

FOUNDATION FOR SOCIAL EMPOWERMENT Petitioner

Through: Ms.Himani Aggarwal, Adv.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.Santosh Kr. Tripathi, SC (C) for
GNCTD with Mr.Arun Panwar &
Mr.Aditya, Adv.

Mr.Anil Soni, CGSC for UOI.

Mr.Ajay Verma & Ms.Nandita Rao,
Adv. for Members of the Committee.

Mr.Anil Grover, SPP CBI with
Mr.Mishal Vij, Adv.

Mr.Ajjay Aroraa & Mr.Kapil Dutta,
Adv. for NDMC.

Mr.Vivek Goyal, CGSC for R-7 with
Mr.Bibhash Kumar, Adv.

Mr.Amol Kokane & Mr.Amit Kochar,
Adv. for R-6.

+ **W.P.(C) 2004/2020 & CM APPL. 7084/2020, 33768/2020 &
18841/2022**

DUMPALA MEENAVATHI AND ANR. Petitioners

Through: Mr.Sarvan Kumar & Ms.Medha
Singh, Adv.

versus

UNION OF INDIA AND ORS. Respondents

Through: Ms.Monika Arora & Mr.Yogesh
Panwar, Adv. for UOI.

Ms. Astha Gupta and Mr. Vimal Raj,
Advocate for R-2

Mr.Amol Kokane & Mr.Amit Kochar,
Adv. for R-4 & R-6.

Mr. Rajesh Kumar, Adv. for CBI



CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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21.04.2022

1. Vide our order dated 19.04.2022 passed in W.P. (C) 2004/2020, we directed the listing of both the writ petitions today.
2. The counsels are present. We have also called upon Mr.Santosh Kr. Tripathi, the learned Standing Counsel (Civil) for GNCTD to examine the matter. He states that he will take instructions from the Department of Women and Child Development of the GNCTD and be ready with his submission on the next date.
3. On 19.12.2017, this Court by its order passed in W.P.(C) 11382/2017, constituted an Inspection Team comprising of Ms.Nandita Rao, Advocate; Mr.Ajay Verma, Advocate; the representatives of the Delhi Commission for Women; and the Deputy Commissioner of Police, nominated by the Commissioner of Police, to visit the premises of respondent no. 6/institute and carry out an inspection thereof.
4. The Inspection Team visited the institute in question and furnished their report, a part whereof has been taken note of by us in our last order, where the extract of the order passed earlier on 22.12.2017 in W.P.(C) 11382/2017 was set out.
5. Ms.Rao submits that the Women's and Children's Institutions (Licensing) Act, 1956 (hereinafter referred to as the 'Act') and the Rules framed there under, namely, the Delhi Women and Children Institutions (Licensing) Rules , 1960 are in force and have not been complied by the respondent/institute, which is housing women.



6. A perusal of the Act *prima facie* shows that the same is attracted and applicable in the case of the respondent no. 6/institute. The object of the Act seems to be laudable, that is, to regulate the institutions established and maintained for the reception, care, protection and welfare of women and children. It appears that the respondent no. 6/institute is not complying with the provisions of this Act and Rules made there under, which obliges the superintendent or other person in-charge in the institution to freely move among the inmates, hear and redress their complaints promptly, acquaint himself with the conduct, progress, behaviour and problems of each inmate and see that each inmate is provided with proper food, clothing and bedding and such other amenities to which she may be entitled.

7. The report of Ms. Rao in W.P.(C) 11382/2017 displays a shocking state of affairs which was prevailing in the institution. She submits that upon the visit of Mr. Verma along with her, they did not find doors on the internal cubicles of the toilets, and only a single door existed for a group of cubicle toilets. Several other aspects were also noted by her in her report.

8. We had recorded in our last order that we propose to direct the takeover of the respondent no. 6/institute by the Government of NCT of Delhi looking at the circumstances. The learned counsel for the institute vehemently opposed any such move by submitting that the rights of the institute are protected under Article 26 of the Constitution of India and the same would stand violated.

9. We are clear in our mind that no minority institution gets a license, only by such it's nature of being a minority institution, to conduct its affairs so as to violate the fundamental rights of individuals, particularly the right to life and personal liberty guaranteed by Article 21 of the Constitution of



India. It falls on the State to ensure that infraction of such rights is prevented and remedied.

10. We have not, for a moment, suggested that the respondent/institute and/or its inmates should not profess their religious and spiritual beliefs. They are free to do that, so long as they do not contravene any law or Constitutional provision. Even if the GNCTD were to take over the institute and appoint an administrator, the freedom of the inmates to exercise their religious and spiritual rights would not be infringed.

11. We direct listing of these petitions on 25th April, 2022 for further hearing and passing necessary orders. No adjournment or pass-over shall be granted.

VIPIN SANGHI, ACJ

NAVIN CHAWLA, J

APRIL 21, 2022/rv