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

+ W.P. (C) No. 3142/2020

APEEJAY SCHOOL SAKET & ORS.Petitioners
Through : Mr. Sanjeev Ralli, Advocate.

versus

GOVT OF NCT OF DELHI & ORSRespondents
Through : Mr. Santosh Kumar Tripathi, ASC for
R-1 to 4.
Mr. Gautam Narayan, ASC for R-5 &
6.
Mr. Khagesh B. Jha with Ms. Shikha
Sharma, Advocates for impleadment
applicant i.e. Naya Samaj Parents
Association.
Mr. Ajay Kohli and Mr. S.S. Sobti
with Ms. Priyanka Ghorawat,
Advocates for the impleadment
applicant.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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18.05.2020

[Court hearing convened *via* video-conferencing on account of COVID-19]

CM No.11002/2020 & 11104/2020, 11051/2020

1. Allowed, subject to just exceptions.

CM No.11050/2020 [for impleadment]

2. Mr. Kohli, who appears for the applicant, says that, for the moment, he has instructions to withdraw the captioned application for impleadment with liberty to approach the court, if necessary.

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3. The application is, accordingly, dismissed as withdrawn with liberty as prayed for.

CM No.11105/2020 (for impleadment)

4. Mr. Jha, who appears for the applicant, says that, for the moment, he has instructions to withdraw the captioned application for impleadment with liberty to approach the court, if necessary.

5. The application is, accordingly, dismissed as withdrawn with liberty as prayed for.

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6. At the outset, I must indicate that Mr. Gautam Narayan, who appears for respondent No.5 & 6, [i.e. District Magistrate (South) and District Magistrate (North West) respectively], states that he has a preliminary objection *qua* the maintainability of the writ petition.

6.1 According to him, the impugned orders are file notings and cannot form the basis for initiating a writ action.

6.2 Furthermore, Mr. Narayan says that the petitioners had challenged the order dated 01.05.2020 passed by the Directorate of Education (DOE) which emanated from the impugned file notings *via* writ actions i.e. W.P.(C) 3041-42/2020.

6.3 Therefore, it is Mr. Narayan's contention that every aspect which has been raised in this writ petition was taken care of by the learned Single Judge when he disposed of the writ petitions bearing numbers W.P.(C) 3041-42/2020 *vide* order dated 05.05.2020.

7. I must indicate that Mr. Ralli, who appears for the petitioners, contests this position.

7.1 It is Mr. Ralli's contention that the petitioners were unaware of the impugned decision and, therefore, could not have assailed the same in the earlier round of litigation.

8. Issue notice.

8.1 Mr. Santosh Kumar Tripathi accepts notice for respondent No.1 to 4 while Mr. Narayan accepts notice for respondent No.5 and 6.

8.2 Counter-affidavit(s) on behalf of respondent No.1 to 6 be filed within two weeks from today. Rejoinder(s) thereto, if any, be filed before the next date of hearing.

9. I may also record that I have been informed by Mr. Narayan that a complaint has been lodged with the Delhi Police pursuant to the decisions which are impugned in the present writ petition.

9.1 It, therefore, becomes necessary to array the Delhi Police as a party to the present proceedings. Counsel for the parties say that he would have no objection if the Delhi Police is arrayed as a party to the present proceedings.

9.2 It is ordered accordingly.

9.3 Delhi Police shall stand impleaded as respondent No.7 in the present proceedings.

9.4 Counsel for the petitioners will file an amended memo of parties within three days from today.

10. Mr. Ralli, broadly, contends as follows.

10.1 That because emails dated 12.12.2019, 16.12.2019 and 25.02.2020 [which are appended on page 223, 229, and 243 of the paper book respectively] were sent by Deputy Director, DOE and/or his office to the petitioners, the petitioners took the decision to charge for the current financial

year i.e. 2020-2021, fee which obtained in the financial year 2019-2020.

10.2 It is important to note that the official respondents No. 1 to 4[i.e. in effect DOE] is disputing the genuineness of the aforementioned e-mails, which is why a police complaint has been filed.

10.3 I must also take note of Mr. Ralli's submission that the aforementioned e-mails emerged from the official email ID of the DOE. In support of this submission, my attention has been drawn to email dated 06.12.2019, marked as Annexure P-15, which is appended on page 216 of the paper book.

11. Since Mr. Ralli points out that the petitioners are willing to adhere to other directions which, according to official respondents have been violated, I am, for the moment, issuing the following *pro tem* directions:

(i) The petitioners will charge from the students only the tuition fee, that too, on a monthly basis, at the rates which were obtaining prior to 31.10.2019.

(i) (a) Mr. Ralli, in this behalf, states that insofar as petitioner No.1 and 3 are concerned, the rates which will be applicable will be those that obtained in the financial year 2016-2017.

(i) (b) Mr. Ralli further submits that insofar as petitioner No.2 is concerned, the rates that will be applicable will be those that obtained in the financial year 2017-2018.

(i) (c) The statement of Mr. Ralli is taken on record.

(ii) The petitioners will not collect any other amounts from the students other than the monthly tuition fee and those which are expressly permitted by the DOE.

(iii) The salaries of staff members and teachers will be paid at the rates presently prevailing.

(iv) The Cyber Crime Cell, Delhi Police will file a report before this Court with regard to their view as to the genuineness of the e-mails referred to hereinabove i.e. e-mails dated 12.12.2019, 16.12.2019 and 25.02.2020.

(v) Till the next date of hearing, the Delhi Police will not take any coercive measures against the management of the petitioners.

(vi) Needless to add, if called upon, the concerned officials and/or management of the petitioners will join the investigation.

12. I may emphasize that insofar as the directions with regard to the fee are concerned, the same are issued with the consent of Mr. Ralli, *albeit*, on instructions received from the petitioners.

13. Renotify the matter on 08.06.2020

RAJIV SHAKDHER, J

MAY18, 2020
pmc/KK

Click here to check corrigendum, if any