



2026:DHC:2697

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

+ W.P.(C) 5053/2020, CM APPL. 18234/2020, CM APPL. 9904/2021,
CM APPL. 17558/2022, CM APPL. 50004/2024

DEEPA CHHIBBER & ORS.

.....Petitioners

Through: Ms. Asha Jain Madan and Mr.
Mukesh Jain, Advocates.

versus

DAYANAND ADARSH VIDYALAYA & ORS.Respondents

Through: Mr. Manish Gupta, Ms. Deepti
Verma, Mr. Prateek Gupta, Mr. Sanjay Mangal,
Mr. Rishabh Rai and Ms. Neelima, Advocates for
R1.

Mr. Hitanshu Mishra, Advocate for Mr. Yeeshu
Jain, ASC

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **23.12.2024**

CM APPL. 75400/2024

1. This is an application filed on behalf of the Petitioner under Order VI Rule 17 CPC for amendment of the writ petition.
2. Issue notice.
3. Mr. Manish Gupta, learned counsel accepts notice for the Respondent No.1.
4. Mr. Hitanshu Mishra, learned counsel accepts notice for Respondent DOE.
5. Let another copy of the application be given to the counsel for the Respondents.
6. Reply be filed before the next date of hearing.



2026:DHC:2697

W.P.(C) 5053/2020

7. This writ petition has been preferred by the Petitioners seeking arrears of salary from December 2019 amongst other reliefs.

8. Ms. Asha Jain Madan, learned counsel appearing on behalf of the Petitioners argues that Petitioners have been taking classes from the December, 2019 and even thereafter during the Covid-19 period *albeit* online, between 2020 to 2022 and this is evident from the documents placed on record. It is argued that the School cannot deny the arrears of pay and allowances on a false pretext that the School had closed since there can be no closure of a recognized School without full justification and without the prior approval of the Director of Education (DoE), which in the present case has not been received till date. Ms. Madan draws the attention of the Court to an order dated 01.06.2021 passed by this Court in W.P.(C.) 5403/2021 filed by the students of the School, wherein DoE had taken a categorical stand that prior permission of DoE is required under Rule 46 of Delhi School Education Rules, 1973 ('1973 Rules') for closure of a School, which in the present case has not been granted *albeit* the application seeking closure is pending. She also submits that on 29.03.2022 this Court had observed that the present petition shows a very sorry state of affairs and the illegal manner in which the School, on its own, stopped paying salaries to the staff members who continued to be in its employment without awaiting approval of DoE and granted time to the parties to amicably resolve the matter. It is urged that despite passage of over two years from the date of passing of the said order, salaries of the Petitioners have not been released.

9. *Per contra*, learned counsel for the School submits that Petitioners have not been taking classes as the School is lying closed and in the absence



2026:DHC:2697

of any material on record indicating that Petitioners have been taking classes, their salaries cannot be released. He seeks time to file a detailed reply on this aspect bringing on record the correct factual position.

10. Heard learned counsels for the parties.

11. From the two judicial orders pointed out by learned counsel for the Petitioners as also from the stand of DoE, it is palpably clear that the School had made an application seeking approval from DoE for closure of the School but till date approval has not been granted. Rule 46 of 1973 Rules provides that no Managing Committee shall close down a recognised school, not being an unaided minority school, or an existing class in such school, without giving full justification and without the approval of the Director, who shall, before giving such approval, consult the Advisory Board. In the absence of approval of DoE, it cannot be argued by the School today that the School has been lawfully closed down and therefore, it cannot deny its liability to pay the salaries and other emoluments due to the Petitioners. No doubt there is a dispute between the parties with regard to the classes taken by the Petitioners but *prima facie* at this stage, basis the documents placed on record including WhatsApp chats during the Covid-19 period, it cannot be said that the Petitioners were not taking classes. Therefore, in the present facts and circumstances and as an interim arrangement, School is directed to release the salaries and emoluments of the Petitioners for a period of six months, without prejudice to the rights and contentions of both the parties. The needful shall be done positively before the next date of hearing.

12. List on 17.01.2025.

JYOTI SINGH, J

DECEMBER 23, 2024/jg