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Mgmt. of Greenfields Public School Vs. Govt. of Nct of Delhi and anr.

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Court : Delhi

Decided On : Jul-01-2008

Reported in : 2008(104)DRJ717

Judge : S. Ravindra Bhat, J.

Acts : [Delhi School Education Act, 1973](#) - Sections 3, 3(2), 3(3), 4, 4(1), 4(4), 10(1), 11, 23, 24, 24(3) and 25; Societies Registration Act; Delhi School Education Rules, 1974 - Rules 44, 46, 50, 51 and 52; [Constitution of India](#) - Articles 14 and 19(1)

Appeal No. : WP (C) 856-857, 9434-9435, 9468-9469, 9473-9474, 9476-9477, 11058-11059, 11069-11070, 11074, 11075-

Appellant : Mgmt. of Greenfields Public School

Respondent : Govt. of Nct of Delhi and anr.

Advocate for Def. : Ashok Sethi and ; Israr Ahmed, Advs. for R-6 (Greenfield School), ;

Advocate for Pet/Ap. : J.P. Singh and; Mithun Barsaley, Advs

Judgement :

ORDER

OF THE DIRECTOR DATED 21-9-2005

28. The petitioner preferred twelve other writ petitions, challenging the order of the Director, quantifying its liability in respect of 11 employees/ teachers. In these, the common ground urged is the Director's lack of jurisdiction. Individually, grounds such as non-application of mind to the facts have been alleged. This court proposes to deal with those petitions, separately, at the end of this judgment, before rendering the findings, and issuing operative directions.

DISCUSSION

29. The Act was conceived and brought into force, for regulating education in the territory of Delhi. Section 3 (3) enacts that from the commencement of the Act, the establishment of any new school or the opening of higher classes in existing schools or the closing down of any existing class in an existing school is subject to the provisions of the Act and the Rules. Thus, with the commencement of the Act, though existing schools were fictionally deemed as recognized and allowed to continue (subject to their fulfilling the requirements of recognition) new schools could be established only in accordance with the Act. A new school can be started only with the permission of the administrator. This is clear from Section 3(2) of the Act; it empowers the administrator to permit the establishment of any such school. Section 4 deals with recognition of schools and empowers the appropriate authority to recognize any private school on an application made to it in the prescribed form. The proviso prohibits recognition of a school, without compliance with the conditions stipulated under the Act (or the Rules framed under the Act). Section 4(4) prescribes that where the managing committee of a school obtains recognition by fraud, misrepresentation or suppression of material particulars, or where, after obtaining recognition, the school fails to continue to comply with any of the conditions specified in the proviso to Section 4 (1), the authority granting the recognition may, after giving the managing committee of the school a reasonable opportunity of showing cause against the proposed action, withdraw the recognition granted to such school under Section 4 (1).

30. Section 10 (1) of the Act reads as follows:

10. Salaries of employees- (1) The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the

employees of a recognised private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority:

Provided that where the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognised private school are less than those of the employees of the corresponding status in the schools run by the appropriate authority, the appropriate authority shall direct, in writing, the managing committee of such bring the same up to the level of those of the employees of the corresponding status in schools run by the appropriate authority:

Provided further that the failure to comply with such direction deemed to be non-compliance with the conditions for continuing recognition of an existing school and the provisions of Section 4 shall apply accordingly.'

Section 23 of the Act prescribes that the Administrator can delegate his powers under the Act to the Director. Sections 24, which are relevant for this case, reads as follows:

24. Inspection of schools- (1) Every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed.

(2) The Director may also arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him.

(3) The Director may give directions to the manager requiring the manager to rectify any defect or deficiency found at the time of inspection or otherwise in the working of the school.

(4) If the manager fails to comply with any direction given under Sub-section (3), the Director may, after considering the Explanationn or report, if any, given or made by the manager, take such action as he may think fit, including-

(a) stoppage of aid,

(b) withdrawal of recognition, or

25. Jurisdiction of civil Courts barred- No civil Court shall have jurisdiction in respect of any matter in relation to which the Administrator or the Director or any other person authorised by the Administrator or Director or any other officer or authority appointed or specified by or under this Act, is empowered by or under this Act to exercise any power, and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

31. The Delhi School Education Rules were framed under the Act in 1974. Rules 44 and 46 are relevant for the present cases. They read as follows:

44. Notices of intention to open a new school-(1) With a view to enabling the Administrator to arrange for the planned development of school education in Delhi, every individual, association of individuals, society or trust, desiring to establish a new school, not being a minority school, shall, before establishing such new school, give an intimation in writing to the Administrator of his or their intention to establish such school.

(2) The intimation, referred to in Sub-rule(1), shall contain the following particulars, namely:

(a) the Zone in which the new school is proposed to be established, and the approximate number of students likely to be educated in such schools;

(b) the stage of education intended to be imparted in the new school;

(c) the number of schools of the intended stage in existence in the Zone where the new school is proposed to be established and the population of such a zone;

(d) whether the person proposing to establish the new school have any alternative zone in view; and if so, the particulars of such alternative zone with respect to the matters specified in Clauses (a) and (c);

(e) the particulars including measurements of the building or other structure in which the school is proposed to be run;

(f) the financial resources from which the expenses for the establishment and running of the school is proposed to be made for any aid;

(g) the composition of the managing committee of the proposed new school until the new school is recognized and a new managing committee is constituted in accordance with the scheme of management made under the Act;

(h) the proposed procedure, until its recognition under the Act, for the selection of the head of the school and other teachers and non-teaching staff and the minimum qualification for their recruitment;

(i) the proposed scales of pay for the head of the school and other teaching and non-teaching staff until the school is recognized under the Act;

(j) admission, tuition and other fees which would be levied and collected until its recognition under the Act, from the student of the proposed new school;

(k) any other facility which is proposed to be provided for the students of the proposed new school.

xxxxxx xxxxxx xxxxxx

Rule 46: Closing down of a school or any class in a school.- 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 prior approval of the Director, who shall, before giving such an approval, consult the Advisory Board.

32. In this case, there is only one society; the Greenfields Education Society. It was founded in 1968; the unrecognized school established by it, was recognized in 1971. At that time, it functioned in Navin Shahdara. In 1976 it secured a two acre plot at Vivek Vihar, where it had to shift. It apparently did so; yet some teaching activities continued at Navin Shahdara. These teachers were originally recruited to the school, which had been recognized in 1971. In 1985, at the Petitioner's request, a plot was allotted by the DDA; one particular stipulation in the allotment itself was that the existing school should entirely shift to the new premises, and the existing school should close down. On 17-11-1988, the Director issued a letter, acceding to the petitioner's request to shift the entire school to Dilshad Garden. Though the letter has been set out earlier, it would be useful to

quote the most material portion again, which is as follows:

Sir,

With reference to your application on the above noted subject, I am directed to convey the permission of the Director of Education for the shifting of your school from class I to XII from Vivek Vihar to Dilshad Garden, Delhi with immediate effect with the following terms and conditions:

1. That all the classes from 1st to XIIth shall be held at Dilshad Garden.
2. That the present school shall be closed down and no recognized classes shall be held at Vivek Vihar.
3. That no branch of the school shall be run under the name of recognized school....

33. The tenor of the letter leaves one in no doubt that the condition of continued recognition of the school was that it should shift, entirely to Dilshad Garden, close and desist from all school related activities at Vivek Vihar, and not hold recognized classes or run a branch of the school under the name of the recognized school. Yet, strangely, the school did not shift entirely or substantially; only Classes IX to XII shifted; the others were shifted piecemeal, and not completely. The result was that there was confusion about the status of those who 'remained behind'; the management wily-nily - not entirely without design - continued this position. Matters came to a head, and the Directorate intervened, set up a committee, which reported that the continuation of activities in Navin Shadara and Vivek Vihar did not have the sanction of law, or the Rules, and was contrary to the terms of permission to shift the school in Dilshad Garden. The recommendations also contained a transition period, detailing the conditions that the management was to follow, to 'regularize' the situation. Eventually, the disputes reached this court; in 1998, the first round of litigation ended; the single judge directed take-over of the school and appointment of a new principal. The management naturally, appealed. During pendency of the appeals, some statements agreeing or committing to pay salaries of the 'left behind' teachers (ie. the applicants seeking absorption) were

recorded in the court. The appeals were heard in 2004; they were disposed of. The Division Bench felt that lapse of time, during pendency of the appeal before it, rendered imprudent, an examination of correctness of the single judge's findings. thereforee, without returning any findings, it ordered that:

1) The director ought to inspect the school again;

(2) The Director of Education was to also consider and decide the issue of any back wages or present wages of the teachers/staff involved in the present litigation and also their claim of deployment in a particular school in the facts and circumstances of the case or any representation made to him in that regard.

(3) The interim arrangement dated 12th October, 1999 whereby the Dilshad Garden School had executed an undertaking in respect of 10 employees, and the Navin Shahdara school had recorded assurance in respect of 11 teachers, was directed to be continued till the Director passed an order, in terms of the Division Bench's final directions.

34. The Division Bench's directions concerning the schools, deployment of employees and arrears was sought to be crystallized by the Director in his order dated 21-9-2005; before that the Petitioner had approached this court on two occasions, calling into question show cause notices issued by the Director. Those writ petitions were disposed of. The challenge in these proceedings is to the show cause notice dated 2.12.2005, (after the order dated 21-9-2005 was issued) and the order of 10.01.2006 issued by the Director of Education under Section 24(4), withdrawing recognition of the school. Though the legality of the primary order of the director was not challenged by the management in the main writ petition, in the subsequent writ petitions which implead the individually affected 10 teachers, that order, dated 21-9-2005 has been challenged.

35. The analysis of provisions of the Act and the Rules leaves no manner of doubt that the jurisdiction to regulate and decide issues concerning education generally, and conduct of affairs of schools in Delhi, vest entirely with the Administrator, and his delegate, the Director. Indeed, specific topics such as recognition have been prescribed in the Act itself, leaving no discretion; as regards unarticulated matters,

the statute left it to the rules to fill in the regulatory space.

36. Between Sections 3, 4 and Rules 44 and 46, all aspects concerning opening of schools, their recognition, continuation of recognition and conditions governing them have been legislated upon. In the recent Division Bench ruling, dated 8th February, 2008, *Social Jurist, a Civil Rights Group v. Government of NCT of Delhi* : 147(2008)DLT729 this court held as follows:

The establishment of a new school could in turn take place only with the permission of the administrator. This is evident from Section 3(2) of the Act which authorizes the administrator to permit the establishment of any such school. We may as well refer to Rule 44 of the Rules framed under the Act which makes a provision regarding the opening of new schools. The rule reads as under:

44. Notices of intention to open a new school-(1) With a view to enabling the Administrator to arrange for the planned development of school education in Delhi, every individual, association of individuals, society or trust, desiring to establish a new school, not being a minority school, shall, before establishing such new school, give an intimation in writing to the Administrator of his or their intention to establish such school.

(2) The intimation, referred to in Sub-rule(1), shall contain the following particulars, namely:

(a) the Zone in which the new school is proposed to be established, and the approximate number of students likely to be educated in such schools;

(b) the stage of education intended to be imparted in the new school;

(c) the number of schools of the intended stage in existence in the Zone where the new school is proposed to be established and the population of such a zone;

(d) whether the person proposing to establish the new school have any alternative zone in view; and if so, the particulars of such alternative zone with respect to the matters specified in Clauses (a) and (c);

- (e) the particulars including measurements of the building or other structure in which the school is proposed to be run;
- (f) the financial resources from which the expenses for the establishment and running of the school is proposed to be made for any aid;
- (g) the composition of the managing committee of the proposed new school until the new school is recognized and a new managing committee is constituted in accordance with the scheme of management made under the Act;
- (h) the proposed procedure, until its recognition under the Act, for the selection of the head of the school and other teachers and non-teaching staff and the minimum qualification for their recruitment;
- (i) the proposed scales of pay for the head of the school and other teaching and non-teaching staff until the school is recognized under the Act;
- (j) admission, tuition and other fees which would be levied and collected until its recognition under the Act, from the student of the proposed new school;
- (k) any other facility which is proposed to be provided for the students of the proposed new school.

27. It is evident from a conjoint reading of Sections 3(2) and 3(3) read with Rule 44 supra that establishment of a new school is also a matter that is regulated under the Act and that such a school could be established only with the permission of the administrator and subject to the fulfilment of the requirements stipulated in the Rules.

28. Rules 50 and 51 of the Rules stipulate the conditions for recognition and the facilities to be provided by a school seeking recognition, while Rule 52 of the said rules empowers the appropriate authority to exempt provisionally any private school seeking recognition from one or from all the provisions of Rule 50 or 51 or both. A closer reading of the said Rules would show that the same inter alia prescribe the composition of the management and other requirements like the need for such a school in the locality, the courses of instructions to be followed by

it and that the School is not run for profit to any individual, group of association of individuals or any other persons. The rules also prescribe that the school must possess a building or other structure in which the school is carried on with congenial surroundings, furniture and equipment adequate and suitable for an educational institution and, where there is any business premise in any part of the building in which such school is run, the portion in which the school is run adequately separated from such business premises. The sufficiency of accommodation for the classes under instruction in the schools and the adequacy of sanitary arrangement and supply of good drinking water are also stipulated as conditions for recognition apart from other requirements like the medium of instruction. The rules also mandate that facilities like physical education, library service, laboratory work, workshop practice, co-curricular activities, etc. are available in the School. Rule 52 referred to earlier empowers the appropriate authority to grant exemption and reads as under:

52. Power to grant exemption-The appropriate authority may, for good and sufficient reasons, exempt provisionally any private school seeking recognition from one or more of the provisions of Rule 50 or Rule 51 or both for such period as it may consider necessary, provided that the appropriate authority is satisfied that the school will be in a position to fulfil in the near future, the requirements from which it is provisionally exempted.²⁹ The following aspects therefore emerge from the above discussion:

(i) The power of the administrator to regulate school education extends to all the schools in Delhi whether the same are recognized or unrecognized.

(ii) A school can be established only with the permission of the administrator granted in terms of Section 3(2) of the Act and any school established contrary to the said provisions shall not be recognized by the appropriate authority.

(iii) Recognition of the schools shall be granted only if the school satisfies the norms stipulated in Section 4(1) of the Act read with Rules 50 and 51 of the Rules framed under the Act.

(iv) The appropriate authority competent to grant recognition may, in its discretion and for good and sufficient reasons, exempt provisionally any private school seeking recognition from one or more of the provisions of Rule 50 or 51 or both for such period as it may consider necessary.

(v) If a school ceases to fulfil any requirement of the Act or any of the conditions specified in the Rules or fails to provide any facility specified in Rule 51, the appropriate authority may after giving the school a reasonable opportunity of showing cause against the proposed action withdraw recognition in terms of Rule 56 which shall not be restored under Rule 57 unless the authority is satisfied that the reasons which led to the withdrawal have been removed and that in all other respects, the school complies with the provision of the Act.

37. Vaishali International School Teachers Welfare Association v. All India Siddharth International Educational Society and Ors. : 132(2006)DLT237 was a Division Bench judgment emphasizing the imperative nature of Rule 46, which prescribes that no school can be shut down without permission of the directorate. Similarly, establishment of a school is a matter entirely covered by the Act; as underlined in Social Jurist by the Division Bench, it is exclusively governed by Rule 44. The establishment of the school at the new locale, i.e Dilshad Garden and the closure at the old locale, i.e at Vivek Vihar, were the exclusive domain of regulatory power of the Director. This provision is cast in imperative terms. It is well settled that when a statute requires a thing to be done in a particular manner, it must be done in that manner or not at all (Ref. Nazir Ahmed v. King Emperor ; Ramchandra Keshav Adke v. Govind Joti Chavare (1975) 1 SCC 915; Morgan Stanley Mutual Fund v. Kartick Das : (1994)4SCC225). therefore, the argument that there was a de facto continuation of the school, which the court has to respect, cannot be countenanced.

38. The order of the Director, requiring the shifting of the school, staff and students, on 17-11-1988, from Vivek Vihar to Dilshad Garden, is unambiguous and admits of only one interpretation; the petitioner had no choice but to relocate the entire establishment. Yet, this direction was flouted; the petitioner continued a large part of its establishment in Vivek Vihar. These events led to a denouement

when the Director had to intervene, in 1995, and constitute a special committee, to recommend corrective measures. The committee did recommend measures. Show cause notice was issued, to rectify the deficiencies; the steps taken included termination of teachers and employees; they approached the court.

39. Now, though the events might be historical, they nevertheless place the case in its perspective. The order of the Division Bench cannot, in the opinion of this court, be interpreted as setting aside the findings of the Single Judge, or quashing the report of the committee constituted by the Director. They were objective facts; the order of the Division Bench is unreasoned; it does not 'set aside' or definitively rule on anything. It merely asked the Director to take a fresh look, after inspection. In that sense, the Division Bench cast an obligation upon that functionary, as regards the matters spelt out by it; they clearly included the duty to determine the liabilities of the employees and teachers, as well as their status. The earlier attempt of the Director, to do so, in December 2004 and 9-2-2005 were not steps in the right direction; this court spelt out what exactly had to be done, by its order dated 6-5-2005. All this while, the petitioner management was not aggrieved by the direction (to the Director to determine the dues of the employees). The orders of court were final, in this respect.

40. It has been held that a litigant, who elects one course of action cannot later, resile from it; the principle is described in the maxim *qui approbat non reprobat* (one who approbates cannot reprobate). The scope of this principle, essentially relating to procedure and pleadings, was described by the Supreme Court in *New Bihar Biri Leaves Co. v. State of Bihar* reported at : [1981]2SCR417 as follows:

The maxim is *qui approbat non reprobat* (one who approbates cannot reprobate). This principle, though originally borrowed from Scots Law, is now firmly embodied in English Common Law. According to it, a party to an instrument or transaction cannot take advantage of one part of a document or transaction and reject the rest. That is to say, no party can accept and reject the same instrument or transaction. Although a person cannot be debarred from enforcing his fundamental rights on the ground of estoppel or waiver, the aforesaid principle which prohibits a party to a transaction from approbating a part of its conditions and reprobating the

rest, is different from the doctrine of estoppel or waiver.

The aforesaid inhibitory principle squarely applies to the cases of those petitioners who had by offering highest bids at public auctions or by tenders, accepted and worked out the contracts in the past but are now resisting the demands or other action, arising out of the impugned condition (13) on the ground that this condition is vocative of Articles 19(1)(g) and 14.

41. In *Bank of India and Ors. etc. v. O.P. Swarnakar and Ors. etc.* : (2003)ILLJ819SC , the Supreme Court noticed a passage from Halsbury's Laws of England, 4th Edn., Vol.16 (Reissue), para 957 at p.844, re-stating the principle, and applied it. The extract from Halsbury is as follows:

On the principle that a person may not approbate and reprobate a special species of estoppel has arisen. The principle that a person may not approbate and reprobate expresses two propositions:

- (1) That the person in question, having a choice between two courses of conduct is to be treated as having made an election from which he cannot resile.
- (2) That he will be regarded, in general at any rate, as having so elected unless he has taken a benefit under or arising out of the course of conduct, which he has first pursued and with which his subsequent conduct is inconsistent.

42. In this case, the petitioner accepted the decision of the Division Bench, requiring determination of the employees' liabilities and their status by the Director. Its subsequent writ petitions were disposed, interpreting the orders of the Division Bench, leaving no room for doubt about the nature of jurisdiction he could exercise. All these determinations, orders and interpretations became final. In these circumstances, the petitioner cannot be allowed to approbate and reprobate now, about lack of jurisdiction of the Director.

43. Independently of the above findings, this court is of the view that since all aspects of recognition, and continuation of recognition are embedded in Sections 3 and 4 of the Act (Section 4(4) empowering the Director to take action against a school, where, after obtaining recognition, the school fails to continue to comply

with any of the conditions specified in the proviso to Section 4 (1) concerning adherence to provisions of the Act), the Director had acted within his authority in determining the liability of teachers and employees, through his order dated 21-9-2005. Indeed, this conclusion is supported by Section 11, which sets up a School Tribunal, empowered to deal with cases of termination of employees. No such special mechanism is provided for in relation to other issues. On the other hand, Section 25 enacts a bar against suits, in respect of matters where the Director has powers to make orders. Such being the case, the Director's order cannot be faulted as lacking in jurisdiction or lawful authority.

44. The director's order cannot also be questioned, since there is no material to justify the recognition of any institution, other than the Dilshad Garden school, after 17-11-1988. The de-facto functioning of parts of the Vivek Vihar (and before that, the Navin Shahdara institutions) did not clothe the petitioner with any right to contend that it is not responsible for the employees who were recruited to a recognized institution, made to serve there, but for its own reasons not shifted to the authorized locale at Dilshad Garden. Its obligations to treat them as its employees, continued; the director's conclusions, in the order dated 21-9-2005 as based on existing materials, were therefore justified.

45. The management's argument that it cannot be saddled with liability in regard to specific amounts, in the absence of legally instituted proceedings, seems facially attractive. Yet, one cannot forget the genesis of the whole dispute. It started with teachers approaching the Director in 1995 and eventually, this court through writ proceedings. That led to the single judge's ruling in 1998. Those that did not approach the court, later did so, through impleadment applications before the Division Bench, and in contempt proceedings. The larger interests of the teacher/employee community were expressly addressed by the Division Bench, in its order, and later, through the order of this court on 6-5-2005. Besides, the order of the Director, as held earlier, cannot be faulted as being out of jurisdiction. The Act does not create a separate mechanism for determining such monetary liability; the only other mechanism is that of the School Tribunal, which adjudicates on the legality of disciplinary orders. The scope of regulatory power under the Act does extend to determination of liability of teachers' and employees dues and salary, at

least in such cases, where the school is permitted to be shifted. In any case, the Division Bench's directions were unequivocal; they have attained finality. To expect teachers and other employees to institute independent proceedings would be to undermine the object of previous directions of the court; besides it would add to delay, multiplicity of proceedings and inevitably be to the disadvantage of such employees. For these reasons, the argument that the order is illegal since it determines monetary liability, is bereft of merit, and therefore, rejected.

46. The last argument of the petitioner was that the Director has also fastened liability in respect of teachers of the Navin Shahdara school who were teaching unrecognized sections, and that the MCD had granted independent recognition to the institution in 1997. They were not aggrieved. Thus, the Director should not have fastened any liability in that regard.

47. Between them, Rules 44 and 46 fully occupy the field of opening and closure of schools. These provisions were used by the Director, when, at the request of the Petitioner, he permitted shifting of the school to Dilshad Garden in 1988. Shifting implied simultaneously opening the school at the new location, and closure at the old location. The terms of the order say as much. Also, the order directed that the 'present school' was to be closed down and no recognized classes could be held at Vivek Vihar. The order also directed that no branch of the school could be run under the name of recognized school. Yet, the petitioner does not deny that complete closure did not take place; it did not shift its activities; it also did not shift its teachers. There is also no contest to the observations of the Committee, in 1995, that complete shifting from Navin Shahdara was not done, and teachers working there were posted also at Vivek Vihar. That report had recommended the absorption of such teachers in Dilshad Garden; the order of 09.02.2005 and the later order of the Director, dated 21.09.2005, similarly determined that such teachers were entitled to be deployed in Dilshad Garden. In these circumstances, its responsibility continued vis--vis such teachers who were 'left behind' without reason, and certainly for none of their fault. Following the ratio of the Division Bench in *Vaishali International* (supra) this court holds as insubstantial and unfeasible, the argument of the petitioners disclaiming their liabilities towards such teachers. For these reasons, there is no merit in the

contention regarding treating two sets of teachers characterized as unequals, equally, on the basis of their being in different institutions, i.e one recognized and the other, recognized. That was the consequence of the petitioners' illegality, and therefore, cannot be the basis of their disclaimer of liability.

Consideration of Claims against individual teachers

48. The petitioners have challenged through ten separate writ proceedings, the order dated 21.09.2005 so far as they concern individual teachers and imp leded them in the writ petitions. Certain general features have to be noticed in view of common grounds urged by the petitioner management in those Petitions. Apart from generally questioning the jurisdiction of a Director to return findings fixing monetary liability in case of such teachers, other grounds too have been raised. The most common ground urged in respect of these petitions is that the Director could not have saddled the management with liability in the absence of records prior to 1985. In the absence of relevant authentic records, the quantification made in all such cases cannot be sustained. It is urged most specifically that these teachers were not employees of the school at Dilshad Garden but were working at Naveen Shahdara, in an unrecognized institution. Another common ground is that the management of Dilshad Garden School and the other school at Naveen Shahdara are entirely different.

49. So far as the question of jurisdiction of the Directorate is concerned, the findings recorded in the proceeding part of the judgment are conclusive and would govern these ten writ petitions also. As regards the other objections this court would first deal with them as they are all common to the ten writ petitions.

50. The factual narrative would show that the school at Naveen Shahdara which was originally the recognized school was permitted to shift completely to Vivek Vihar in 1976; this school in turn was to shift entirely to Dilshad Garden in 1985. A special committee appointed by the Directorate in 1995 to look into these aspects gave elaborate observations as to how the school breached these directions on every occasion. The school was therefore directed to completely shift and cease activities at the other locales more particularly Vivek Vihar on or after 1.4.1995. The committee had recognized blatant violations of law in contravention of the

orders of the Directorate in the following terms:

Greenfield School was started as a recognized school in the very beginning at Shahdara. Later on this school was allotted land at Vivek Vihar and consequently the recognized school from Shahdara was transferred to Vivek Vihar and unfortunately the school at Shahdara continued to exist as an unrecognized portion. Not only this the staff at the will and choice of the management was transferred to Vivek Vihar and some of them remain continued working at Shahdara with the assurance that the teachers will enjoy the status of being working in a recognized school.

51. After considering all these observations, a solution was suggested i.e. shifting of the entire school and stopping of all activities in the previous location. Those observations are in fact determinations of fact which led to a direction to take over the school. The observations were never held to be groundless. In view of this past history it has to be concluded on the basis of materials made available during the course of enquiry, (which showed that the second petitioner i.e. Ms. Barsaley had signed the appointment letters and other documents/letters, in her capacity as Principal, conferring benefits on these teachers) that having availed their services all this while and also having flouted the orders of the Directorate, it is not open to the petitioners to allege that the Director could not have determined monetary liability in specific terms in relation to each of these 10 teachers. They had been appointed by the second Petitioner; the various institutions, i.e. Navin Shahdara School - the first recognized School; the Vivek Vihar School, and the Dilshad Garden School all utilized the services. The argument about the teachers not being employees of a recognized School wears thin, because as between teachers in Navin Shahdara and Vivek Vihar, no distinction could be made--teachers in both these schools were the victims of the deliberate 'left behind' policy of the management. The director's order attaches a table which runs into 24 pages and discusses the merits of each case. In all these cases, the management chose not to file any reply. In view of these circumstances too it cannot complain of lack of material or inadequate material in support of the findings.

52. The court will now discuss the grounds urged in relation to each of the ten individual cases hereafter.

W.P. (C) 9468-69/2006 9468-69/2006 --Ms. Beryl Sewak

53. WP (C) No. 9468-69/2006 9468-69/2006 is in relation to Ms. Beryl Sewak who claimed an amount of Rs. 2, 69, 309/-. The petitioners claim that there has been non application of mind by the second respondent since she was working with Greenfield Public School at Naveen Sahadra from the time of her appointment in 1985-86 and not with them. They also allege that the impugned order was passed despite the fact that no letter of appointment was issued to her by the management of the petitioners. therefore, they claim that if any relief has to be claimed it has to be against Greenfield Public School, Naveen Sahadra. They also submit that since she had not preferred any claims before the Department or the High Court at an earlier stage, the Department could not now have entertained her claims. A further allegation is that the records were not properly inspected as per the directions of the Court and that the Department cannot assume jurisdiction by transferring the employees from one school to another. The order of the Director dt. 21.9.2005 shows that the appointment letter for GPS, Sahadra was signed by Ms. Barsaley. Other records include EPF slips (1989-93), name in the list of teachers issued by school, photographs, etc. All these reveal that she has been a teacher in the said school. Her name is found in the order of the Department dated 9.2.2005. therefore, she is entitled to file claims as directed by the Court. The grounds of the Petitioners here are consequently untenable.

W.P. (C) 11077-78/2006 -- Ms. Girish Chowdhary

54. Ms. Girish Chaudhary claimed an amount of Rs. 3, 62, 726/-. The petitioners claim that there was non application of mind on by the second respondent since she was working with Greenfield Public School at Naveen Sahadra from the time of her appointment in 1980 and not with them. They also allege that the impugned order was passed despite the fact that no letter of appointment has been issued to her by the management of the petitioners. therefore, they claim that if any relief has to be claimed it has to be against Greenfield Public School, Naveen Sahadra. They submit that since she had not preferred any claims before the Department or

the High Court at an earlier stage, the Department could not now have entertained her claims. A further allegation is that the records were not properly inspected as per the directions of the Court and that the Department cannot assume jurisdiction by transferring the employees from one school to another. The appointment letter for GPS, Sahadra was signed by Ms. Barsaley. Other records include provident fund statements, savings bank account pass book with school address, identity card, group photograph, etc. also show that she had been a teacher in the said school. Her name is found in the order of the Department dated 9.2.2005. therefore, the entitlement to file claims as directed by the Court, and the findings of the Director cannot be held as arbitrary or groundless.

W.P. (C) 11069-70/2006 -- Ms. Sunita Aggarwal

55. Ms. Sunita Aggarwal claimed an amount of Rs. 3, 17, 873/-. The petitioners here, too allege non application of mind by the Director and that she was working with Greenfield Public School at Naveen Sahadra from the time of her appointment in 1985. They also allege that the impugned order was passed despite the fact that no letter of appointment has been issued to her by the management of the petitioners. therefore, they claim that if any relief has to be claimed it has to be against Greenfield Public School, Naveen Sahadra. They submit that since she had not preferred any claims before the Department or the High Court at an earlier stage, the Department could not now have entertained her claims. A further allegation is that the records were not properly inspected as per the directions of the Court and that the Department cannot assume jurisdiction by transferring the employees from one school to another. They also state that in the absence of relevant service record, computation of arrears is improper. Here, the appointment letter for GPS, Sahadra was signed by Ms. Barsaley. Other records such as provident fund documents, identity card, signed by Ms. Barsley, Best Teacher Award Certificate signed by Mr. Barshley in 1991, EPF Statement all show that she had been a teacher in the school. The grounds of attack by the petitioners are therefore, held to be untenable.

W.P. (C) 11075-76/2006 -- Ms. Asha Rani Chopra

56. Ms. Asha Rani Chopra claimed the sum of Rs. 3, 19, 531/-. The petitioners allege non application of mind on the part of the second respondent since she was working with Greenfield Public School at Naveen Sahadra from the time of her appointment in 1987 and not with them. They allege that the impugned order was passed despite the fact that no letter of appointment has been issued to her by the management of the petitioners. They also allege that since she had not preferred any claims before the Department or the High Court at an earlier stage, the Department could not now have entertained her claims. A further allegation is that the records were not properly inspected as per the directions of the Court and that the Department cannot assume jurisdiction by transferring the employees from one school to another. They also state that in the absence of relevant service record computation of arrears improper. In this case, the appointment letter for GPS, Sahadra signed by Ms. Barsaley. The other documents which support her claim are identity card, employees provident fund records, group photographs, etc. The grounds attacking the determination are without merit.

W.P. (C) 12190-91/2006 12190-91/2006 --- Kusum Lata Sharma

57. Ms. Sharma claimed the amount of Rs. 3, 00, 664/-. She had worked since 1985-86. The documents in her case too were identify card and employees provident fund records. She had worked even in a Ghaziabad unit as well as at Navin Shahdara. This teacher had relied on a transfer order, dated 21.4.1990 posting her from Navin Shahdara School to Vivek Vihar, signed by Ms. Barsely. she could also produced certificates for attending workshops, on behalf of the school , signed by Ms. Barsely. The Petitioners' objections to findings in her case are the same as in Asha Rani Chopra. They are without basis. The Director's order is valid.

W.P.(C) No. 11074-85/2006 -- Ms. Bindu Popli

58. Ms. Popli claimed an amount of Rs. 2, 95, 768/-. She had been working since 1985-86. Here too, the documents which persuaded the Director to grant the claim were EPF records, Photographs, copy of representation made earlier to the department alleging withholding of appointment letter, though she was working in the school since 1.7.1982. The grounds of attack here too are identical with W.P.

C(C 11075-76/2006 and W.P. (C) 12190-91/2006 12190-91/2006 . They are held to be without basis, for the same reasons.

W.P. (C) 11058-59/2006 -- Ms. Anju Dhamija

59. Ms. Dhamijia claimed an amount of Rs. 2, 79, 684/-. She had been working since 1986. She had been working since 1986 and relied on EPF Records from 1989-90 to 2002, Group photographs, list of all teaching staff containing her name issued by the school, certificate evidencing her attendance in a mathematics workshop issued by the school in 1993 and a teaching practice certificate issued by the school. All these letters/documents were signed by Ms. Barsley. In this case too the petitioners have relied on identical grounds as in W. P. (C) 11075-76/2006 and the other previous cases. For the reasons spelt out in relation to those writ petitions, such grounds are untenable.

W.P. (C) 9473-74/2006 9473-74/2006 -- Ms. Promila Gulati

60. Ms. Gulati claimed that she was working since 1980. She alleged that a sum of Rs. 2, 09, 278/- . was due which was upheld by the Director. She had relied on the offer of appointment letter dated 2.8.1980 for the school at Navin Shahdara and other documents. Her name was also found in the previous order of the Director dated 09.02.2005. The documents were signed by Ms. Barsley. Her claim too cannot be ignored. The grounds of the management are identical as in other cases, and have to fail, for the same reasons.

W.P. (C) No. 9476-77/2006 9476-77/2006 --- Ms. Meena Kalia

61. Ms. Meena Kalia claimed a sum of Rs. 3, 41, 025/-. According to her claim, she was working since 1987 in Navin Shahdara School. She relied upon appointment letter and probation letter both issued by Ms. Barsley. She also produced EPF Records for the period 1989-90 to 1994-95 and identity card. The latter too was signed by Ms. Barsley. Additionally she relied on certificate attending workshop issued on behalf of Navin Shahdara School signed by Ms. Barsley. Like in other cases, the grounds in this case too are lack of material and want of jurisdiction by the Director. In view of the findings in the other writ petitions,

the grounds urged here too are held to be without basis and therefore untenable.

W.P. (C) No. 9434-35/2006 9434-35/2006 --- Ms. Rekha Maheshwari

62. Ms Maheshwari also claimed that she was working in the Navin Shahdara School and that she was entitled to an amount of Rs. 2, 93, 762/-. This claim was accepted by the Director who was persuaded to do so on the basis of documents such as copy of appointment letter evidencing completion of her probation, a letter concerning her probation; identity card, certificates recording her having attended workshop on behalf of the school, etc. All like in the other cases the documents were signed by Ms. Barsley. She also relied on EPF statement 1989-96. In view of the findings in the previous writ petitions the grounds urged here which are identical are also held to be untenable.

63. It is evident from the above discussion that in addition to the common grounds, no separate or individual grounds peculiar to these ten employees were urged. As is evident by discussion from each petition the challenge is by and large on the basis of lack of jurisdiction, of the Director absence of adequate material, and that the teachers were employees of Navin Shahdara. These grounds are, as held earlier, cannot be sustained. These ten Petitions , namely, W.P. (C) 9434-35/2006 9434-35/2006 therefore have to fail.

APPLICATIONS FILED BY TEACHERS IN W.P. (C) 856-857/2006 856-857/2006

64. Many teachers have filed applications. The Court proposes to deal with each one of them separately.

CM No. 3068/2006

65. This application has been filed for impleadment on behalf of 10 teachers. All of them have been impleaded in the individual writ petitions which were discussed earlier. In view of the findings recorded in those writ petitions, it has to be held that the claim of these applicants so far as it has been upheld in the order dated 21.9.2005 are left undisturbed. The application 3068/2006 is accordingly disposed of.

CM No. 7095/2006

66. This is an application filed by Ms. Sheela Bhardwaj who has also apparently filed W.P. (C) 8914/2004 which is pending on the file of this court. The director had held her to be entitled for Rs. 3,88,673/-. However, he did not make any formal order in view of the pending petition W. P. (C) 8914/04. The applicant has also produced copies of some orders made in that writ petition which disclosed that this court is awaiting judgment in W.P. (C) 856-57/2006.

67. In view of the findings recorded above, it is held that the determination of arrears payable to Ms. Sheela Bhardwaj is hereby affirmed. This would be without prejudice to any other relief she may be entitled to claim or press in W. P. (C) 8914/04. CM No. 7095/2006 is accordingly disposed of.

CM No. 4716/2007

68. This application has been preferred by Ms. Sarita Saxena and Ms. Rajni Bakshi; they seek impleadment. Their claims too were adjudicated and accepted by the Director in the order dated 21.9.2005. Since there is no challenge to that determination by separate proceedings as in the case of other teachers, these applicants are entitled to the amounts ordered by the Director. The application CM No. 4765/07 is accordingly disposed of.

69. It is clarified that the benefit under the determination by the order dated 21.9.2005 of the Director shall not be withheld merely because of the disposal of W.P. (C) 504/1994 preferred by Ms. Sunita Sharma. Apparently that writ petition was filed and was part of the first round of litigation; for some reason it was not disposed of along with the other writ proceedings in 1998.

70. The order of this Court dated 7.3.2007 dismissing W.P. (C) 5046/1994 preferred by Ms. Sarita Saxena discloses that she too had an entitlement in terms of the Division Bench order. The order of the Director dated 21.9.2005 shows that she did exercise that right and the Director upheld her entitlement. In these circumstances she is clearly entitled to the amounts and the disposal of her previously instituted W.P. (C) 5046/1994 cannot be construed as an impediment.

71. CM No. 4716/2007 is accordingly disposed of in terms of the above observations; both the applicants Ms. Sarita Saxena and Ms. Rajni Bakshi are entitled to the amounts determined by the Director.

CM No. 2434/2008

72. This application has been preferred by Ms. Athar Bano, Ms. Amarjeet Kaur, Ms. Sunny Thomas, Ms. Madhu Bhatia and Ms. Sudesh Tayagi. As in the case of all the other teachers, and the affirmation of order of the Director dated 21.9.2005, the determinations made in their favour, are upheld. The Management has not been imp leaded them or separately challenged that order and the determinations unlike in the other ten petitions. thereforee, the CM No. 2434/2008 is accordingly disposed of.

Validity of order dated 2.12.2005 and 10.1.2006

73. By the orders on 2.12.2005 the Director issued show cause notice requiring the petitioners to comply with the order determining the management's liability to payment of dues, to the 28 teachers mentioned in the order of 21.9.2005. The petitioner resisted this notice and furnished its reply. In the circumstance by the order dated 10.1.2006 the Director withdrew recognition under Section 24 (4) of the Act.

74. The sequence of events traced out in the narrative part of the judgment and the findings recorded earlier clearly show that despite several opportunities the management was obdurate in its insistence on washing its hands of the liability owed towards these teachers. It always distanced itself from them claiming that they were not part of the Dilshad Garden School, conveniently glossing over the fact that the denial was its doing and its unilateral act. In some cases these teachers were left behind though the institution moved on to new locales. In keeping with its regulatory powers the Director's order of withdrawal of recognition obviously was thus a consequence of his attempt to assure corrective action. The order withdrawing recognition can hardly be faulted as abuse of power. During the pendency of these proceedings the order dated 10.1.2006 remained suspended.

75. By an order dated 1.3.2007 in W.P. 856-857/2006 856-857/2006 the petitioner management was permitted to deposit Rs. 25 lakhs. The total liability of the management as indicated in the order dated 21.9.2005 by the director is Rs. 97,70,369/-. It has challenged, through separate writ petition Nos. W. P (C) 9468-69/06, 11077-78/06, 11069-70/06, 11075-76/06, 12190-91/06, 11074-85/06, 11058-59/06, 9473-74/06, 9476-77/06 and 9434-35/06 (ten writ petitions), the common order pertaining to ten teachers in those writ petitions work out to about Rs. 29,89,620/-. Since the Management has not challenged the dues of the other employees and intentionally allowed such orders to become final, and also not challenged the order dated 21.9.2005 in W.P.(C) 856-57/2006, the other dues also, are payable to the teachers and employees, in view of the findings recorded in the previous part of the judgment.

76. In view of the above reasons the following findings and directions are hereby recorded and issued:

(i) In view of the directions of the Division Bench, made on 10.2.2004 (in LPA No. 511-512 and 514-517/98) as well as the consequential order dated 6.5.2005 in W. P. (C) 7302-7303/05 the order of Director dated 21.9.2005 is valid and legal. The liabilities particularly in those orders have to be discharged by the petitioners in these writ petitions, in the manner indicated hereafter.

(ii) As a consequence of non-compliance of the order dated 21.9.2005, the Director acted within jurisdiction in issuing the order under Section 24 (4) of the Act. The same cannot also be characterized as arbitrary. In view of the pendency of these writ petitions and the subsistence of interim orders and to avoid further litigation it is hereby directed that the petitioners shall discharge their liability strictly in conformity with the order dated 21.9.2005 issued by the Director. While doing so the amounts disbursed by the order of this court dated 22.11.2007 in relation to the 12 persons indicated in the said order shall be adjusted, as far as they are concerned .

(iii) The balance amounts payable to the persons mentioned in the Directors order of 21.09.2005 after adjusting amounts as indicated in the preceding direction shall be disbursed to such individual teachers within three months, by the petitioners.

(iv) The Registry, with whom the balance of Rs. 25 lakhs are lying, shall transfer the same to the Directorate within two weeks, to facilitate compliance with this judgment. The Directorate shall co-operate with the Registrar in that regard. Parties shall be present before the concerned Registrar on 8th July, 2008, for this purpose.

(v) The petitioners and the concerned teachers shall appear before the Director on 15.7.2008, to work out modalities for payment, and evolving a schedule, (within the three months period) if necessary. The Director shall ensure due compliance with this judgment and take necessary steps to ensure due compliance of the orders.

(vi) The power of the Director to issue the order dated 10.1.2006, and its legality is hereby upheld. The said order shall be kept in abeyance, for the three months period mentioned above. At the end of three months the Director shall review the position and in the light of the compliance disclosed to him and pass fresh or appropriate orders in accordance with law.

All the writ petitions and pending applications are disposed of in terms of the above directions. Order dusty to the parties.

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