

Chander Sen and ors. Vs. Director of Education and ors.

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Court : Delhi

Decided On : Jul-18-2013

Judge : Valmiki J. Mehta

Appellant : Chander Sen and ors.

Respondent : Director of Education and ors.

Advocate for Def. : Mr. Yogesh Saini, Mr. Rajeev Sharma, Mr. Gaurav Mitroy, Mr. Mohit Chadha, Ms. Samleen

Advocate for Pet/Ap. : Mr. R.K.Kapoor, Ms. Rekha Giri

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) No. 10191/2009 & CM No. 8683/2009 (Stay) 18th July, 2013 % CHANDER SEN & ORS. Through: Petitioners Mr. R.K.Kapoor and Ms. Rekha Giri, Advocates. VERSUS DIRECTOR OF EDUCATION & ORS. Respondents Through: Mr. Yogesh Saini, Adv. for Mr. Rajeev Sharma, Adv. for R-1 & R-2. Mr. Gaurav Mitroy, Mr. Mohit Chadha and Ms. Samleen, Advocates for R-3. CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not? VALMIKI J.

MEHTA, J (ORAL) 1. In this writ petition, a very limited relief is sought. The limited relief is that the management of the aided school i.e the respondent no.3, must pay to the teachers 5% towards the salary and other allowances as is legally payable to teachers and employees of a school.

2. It is an undisputed position emerging on record that respondent no.3 is an aided school, i.e 95% of the funds are provided by the Govt. of NCT of Delhi through the Directorate of Education and 5% funds have to be garnered by the Management of the school. It is also undisputed before me that the issue in this case is only of payment of arrears of 5%. I note that this writ petition is pending since July, 2009. Today we are in July, 2013. I do not find any necessity to adjourn the matter in view of the limited nature of controversy in this case because management cannot dispute that it is legally bound to pay 5% of the funds/finances required for running of the school and which funds are used inter alia for payment of salaries to teachers and employees of the school.

3. Counsel for respondent no.3 does not press any other issue, though certain earlier orders passed by this Court reflect the aspect of a memorandum between the school and parents body. I may note that how the respondent no.3 legally arranges its funds is not for this Court to look into, however the management surely has a legal obligation to ensure that it complies with the duty of bringing in 5% and the same is strictly adhered to by it.

4. Counsel for respondent no.3/school/management, sought to contend before me that they have entered into a memorandum of settlement with the parent teacher body to generate the funds and thus this Court can look into the aspect of arranging of finances. Surely this Court cannot look into any such aspect because the respondent no.3-school-management has necessarily to act in accordance with law being the Delhi School Education Act & Rules 1973 by generating the funds and Court cannot give its stamp of approval to any memorandum which may be entered into by the respondent no.3/management with anybody for arranging of finances by the management. Whatever is permissible by the Management in law can be done. What is impermissible cannot be done.

5. In view of the above, the writ petition is allowed. It is directed that respondent no.2 will positively within a period of three months from today bring in the necessary funds to pay the arrears of salaries to the teachers and employees of respondent no.3-school as regards the remaining 5% of the amount which is to be paid to the teachers and employees of the respondent no.3. In case the

respondent no.3 does not bring in 5% of the funds within a period of three months from today, then, the respondent no.1-Director of Education is directed to take necessary action in accordance with law, including of taking over of the management of the respondent no.3-school. Respondent no.1 is directed in case of any dispute with respect to calculations of arrears, to take necessary steps to inform the management/respondent no.3 of the amounts which would be payable by the respondent no.3-school to the teachers and employees of the respondent no.3school with respect to the 5% of the balance amount.

6. Interim orders passed by this Court will no longer survive in view of the writ petition being disposed of today. JULY 18 2013/ib WPC 10191/2009 VALMIKI J.

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