

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
OLD SECRETARIAT, DELHI - 110054**

No.F.4/2-09/2012-13/262/ 10473-476

Dated: - 14/08/13

ORDER

1. Whereas, the Hon'ble High Court of Delhi vide order dated 15.01.2013 in WPC No. 238/2013 titled as Association for Social Education & Voluntary Initiative Vs. State & Ors has passed an order as under: -

"By the present petition, the petitioner prays that the complaint made by the petitioner be disposed of by the respondents.

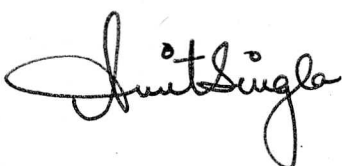
Mr. Madan, Advocate for respondents who enters appearance on an advance copy on instructions submits that the complaint made by the petitioner shall be disposed of within a period of six weeks from today.

In view of the statement so made by counsel for the respondents, counsel for the petitioner submits that no further orders are required to be passed in this writ petition.

Accordingly, writ petition stands disposed of."

2. And whereas, it is observed that the petitioner vide representation dated 14.12.2012 had filed a complaint in respect of mismanagement and malfunctioning done by the members of the management committee of Jyoti Model Sr. Secondary School, Adarsh Nagar alleging various irregularities.
3. And whereas, it is seen that in another court case i.e. WPC No. 1932/2013 titled as Association for Social Education & Voluntary Initiative Vs. State & Ors the Hon'ble High Court of Delhi vide order dated 22.03.2013 had passed an order as under: -

"Counsel for the petitioner also submits that the representation made on 11.03.2013 by the parents of the children has not been considered by the Director of Education. It is also submitted that the fate of approximately 2000 children would be in uncertainty,



should the respondent no. 3 & 4 take an extreme step of closing down the school. Counsel for the petitioner submits that at this state the petitioner would be satisfied if a direction is issued to the respondent no. 1 to decide the representation of the petitioner expeditiously.

Counsel for respondent no. 1 and 2 submits that the representation, copy of which is placed at page 12 of the paper book, shall be decided by the Director of Education within two weeks. Let the two members of the petitioner association approach the Director of Education on 02.04.2013 at 2.30 pm to explain their apprehensions. In case the time and date is not suitable to the Director of Education, fresh date and time will be informed to the petitioner at the address mentioned in the writ petition”.

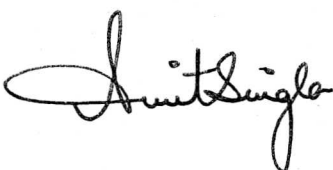
4. And whereas, in compliance of the directions of the Hon’ble Court this Directorate, while deciding the said representation dated 11/03/2013, had passed an order as under:-

“ Whereas, the Hon’ble High Court of Delhi vide order dated 22.03.2013 in WPC No. 1932/2013 titled as Association for Social Education & Voluntary Initiative Vs. State & Ors has passed an order as under: -

“Counsel for the petitioner also submits that the representation made on 11.03.2013 by the parents of the children has not been considered by the Director of Education. It is also submitted that the fate of approximately 2000 children would be in uncertainty, should the respondent no. 3 & 4 take an extreme step of closing down the school. Counsel for the petitioner submits that at this state the petitioner would be satisfied if a direction is issued to the respondent no. 1 to decide the representation of the petitioner expeditiously.

Counsel for respondent no. 1 and 2 submits that the representation, copy of which is placed at page 12 of the paper book, shall be decided by the Director of Education within two weeks. Let the two members of the petitioner association approach the Director of Education on 02.04.2013 at 2.30 pm to explain their apprehensions. In case the time and date is not suitable to the Director of Education, fresh date and time will be informed to the petitioner at the address mentioned in the writ petition”.

And whereas, in compliance of the directions of the Hon’ble Court a meeting notice dated 02.04.2013 was issued wherein the meeting with the members of the petitioner association was rescheduled for 05.04.2013 at 11.00 am as the undersigned was not available due to 61st meeting of Central Advisory Board on Education (CABE) and Vidhan Sabha session.

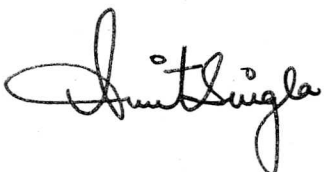


And whereas, on 05.04.2013 members of the petitioner, Captain Subedita Rani and Ms. Guncha attended the personal hearing. The members of the petitioner reiterated their contentions and submitted the representation dated 14.12.2012 from Captain Subedita Rani for Association for Social Education & Voluntary Initiative, representation dated 01.03.2013 from six teachers of Jyoti Model Sr. Sec. School, Adarsh Nagar and three representations dated 11.03.2013 from parents of students of that school. On going through these representations following broad contentions are found –

1. Apprehension of parents that the said school will be discontinuing senior secondary wing i.e. 11th and 12th class from the next academic session i.e. 2013-2014.
2. Parents are worried due to rumor floated by members of Managing Committee to sell out the school.
3. Most of the staff members are not paid salary as per the recommendation of the 6th Pay Commission.
4. Members of the managing committee are all blood relations to each other.
5. Mismanagement and irregularities in school created by the present management committee.

And whereas, it is pertinent to note that a complaint dated 09.11.2012 against Jyoti Model School for not following education rules and guidelines was received from Adarsh Nagar Welfare Association addressed to Sh. Anil Dev Singh Committee appointed by the Hon'ble High Court of Delhi to look into the fee hike issue subsequent to the implementation of the VIth Pay Commission. Subsequently, a special inspection under section 24(2) of DSEAR, 1973 was ordered under the leadership of DDE (North West-B). Following concluding observations were made by the inspection team in their report –

1. Due to a major family property dispute, there was no coordination among the Chairman and Manager on one side and the school principal on the other. This is adversely affecting the school atmosphere and the day to day working of the school and studies of the students.
2. The total area of the school was not found adequate to accommodate a Senior Sec. School with an enrolment of 1349 students. Class-rooms are small and over-crowded.
3. The school authorities have paid the salary to the staff partly in accordance with 6th Pay Commission report. However, the grade pay is being paid @ Rs. 2800/- instead of Rs. 4200/- to 9 Asstt. Teachers and the school is also paying a consolidated salary to 6 employees. Zonal authority to check the annual financial reports to ascertain the financial availability and also check if any commercial activity is being carried out in the building.
4. Frequent surprise inspections be carried out by concerned Zonal/District Authority to ensure smooth functioning of the school.



5. The records/recognition file of the school should be traced at the earliest or else recreated by seeking originals/photocopies of records.

And whereas, the inspection report was conveyed vide letter dated 08.04.2013 to the Manager Jyoti Modern School, Adarsh Nagar with the directions to remove/rectify the deficiencies as pointed out by the inspection team within 15 days from the receipt of the letter. No reply in this regard has been received from the said school.

And whereas, it is also observed that a writ petition (c) No. 238/2013 was filed by the petitioner before the Hon'ble High Court of Delhi for issuance of writ of mandamus for deciding the representation dated 14.12.2012 made by the petitioner in accordance with law. The Hon'ble Court vide its order dated 15.01.2013 directed to decide the representation dated 14.12.2012 within a period of six weeks. A contempt petition No. 236/2013 was filed by the petitioner and the Hon'ble Court while disposing of the contempt case on 20.03.2013 ordered as under –

“Learned counsel for the respondent has entered appearance on an advance copy and on instructions submits that inquiry has been concluded, a final order would be passed within three weeks from today positively and a copy of the order will be supplied to the petitioner at the address mentioned in the writ petition. Respondent shall be bound by the stand taken by the counsel in Court today. It is made clear that any violation of the order passed on 15.01.2013 and the order passed today shall be viewed strictly.”

And whereas, Jyoti Modern Sr. Secondary School, Adarsh Nagar was granted recognition up to class VIII with certain terms and conditions conveyed vide letter dated 23.07.1980 and subsequently was upgraded up to Secondary stage w.e.f. academic session 1988-89 subject to fulfillment of certain terms & condition conveyed vide 06.03.1989. The school was further upgraded from Secondary to Sr. Secondary level w.e.f. the academic session 1999-2000 in Humanities and Commerce Stream subject to the fulfillment of certain terms and condition. One of the condition of the recognition and up-gradation was that the school shall abide by the provisions of DSEAR, 1973 as well as the instructions issued from time to time by the Directorate of Education.

And whereas, it is also observed from the available record that the E.O. Zone-9 vide letter dated 16.04.2013 and its reminder dated 01.05.2013 directed Jyoti Model Sr. Sec. School not to deny admission in class XI without prior permission of the Competent Authority.

And whereas, from the attendance details available on record submitted by the Principal of the school, it is apparent that there are 50 students in class XI who are attending classes provisionally. Simultaneously, it is also observed that the Chairman of the school has conveyed to the DDE (NW-A) vide letter dated 17.04.2013 that the management of the school has taken a decision to discontinue with the classes at Sr. Secondary stage w.e.f. the academic year 2013-14 as the Central Board of Secondary Education has not granted provisional affiliation.



And whereas, it is pertinent to recall that the section 46 of Delhi School Education Act, 1973 regarding closing down of a school or any class in a school provides as under –

“No managing committee shall close down a recognized 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.”

It is evident from the inspection report that there is a dispute in the owners over management control over the school. In a similar matter the case was referred to the Commissioner (Firms & Societies) wherein it was opined by the office of Commissioner (Firms & Societies) as under –

“As per section 13 of the Societies Registration Act, 1860 ‘in the event of any dispute arising among the said Governing Body or the members of the societies, the adjustment of its affairs shall be referred to the principal court of civil jurisdiction of the district court in which the chief building of the society is situated.’”

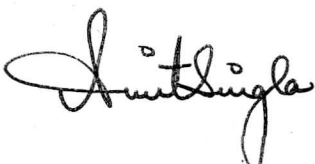
In the light of the circumstances surrounding the issue, I, Amit Singla, Director (Education) hereby direct the management of Jyoti Model Sr. Sec. School, Adarsh Nagar as under –

1. Not to discontinue class XI and XII from for the academic year 2013-14 and will pursue for affiliation with Central Board of Secondary Education, if required.
2. Not to close down the school or discontinue any class without giving full justification and without the prior approval of the Competent Authority.
3. To pay the salary as per the 6th Pay Commission to the staff members.
4. In case there is any dispute about management control the same should be agitated before the concerned authority i.e. the Civil Court which has jurisdiction over such matters.
5. To follow the provisions of RTE Act, the DSEAR, 1973 and the instructions/guidelines issued by the Directorate scrupulously.

Further the DDE (NW-A) is directed to file an FIR regarding the missing files pertaining to recognition/upgradation of the school. It is also directed that the said files be reconstructed immediately.

Regarding the issue of alleged financial irregularities, ADDE(Act-I) is directed to refer the matter to the office of the CAG for conducting an audit as per provisions of Rule 180(3) of the DSE Rules 1973.

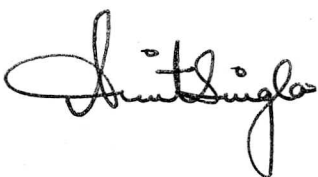
This disposes off the orders dated 22.03.2013 in WP(C) 1932/2013 of Hon'ble High Court of Delhi.”



5. And whereas, it is observed that the issues raised vide complaint dated 14.12.2012 and those content in representation dated 11.03.2013 were identical.
6. And whereas, subsequent to the order dated 16.05.2013 a reply dated 12.07.2013 was received from the respondent school wherein it was informed that the CBSE vide letter dated 05.10.2012 has cancelled the affiliation of the school for 11th and 12th standard for the academic year 2013-14 and has directed as under:-


"I am directed to inform you that the above permission for sponsoring the names of the students of your school has been granted as a special case subject to the condition that:

- 1. The request of the school for granting provisional affiliation with the Board will only be considered provided the school fulfills all major conditions. It may be out of place to mention here that the deficiencies observed by the Board have already been communicated to the school at the time its request was rejected.*
 - 2. No further permission beyond 2013 will be granted to the school for sponsoring its candidates to Board's Examination unless the school is affiliated with the Board.*
 - 3. The School will not open classes IX/ X and XI / XII as the case may be w.e.f. 01.04.2013 under CBSE pattern in the absence of grant of Provisional Affiliation with the Board.*
 - 4. The candidates sponsored by the school should be its bonafide students and have undergone regular course of study in the school."*
7. And whereas it is seen that if the school is not successful in getting affiliation from the CBSE for the senior secondary school, the students will not be able to appear in the Board's examination. It is also seen that the matter is presently sub-judice in another case before the Hon'ble High Court in WPC No. 4351 of 2013 titled as Mahesh Yadav v/s The State & Ors.
 8. And whereas if the CBSE does not agree to grant affiliation to the school, the matter will have to be placed before the advisory board as per provisions of Rule 46 of the DSEAR,



9. Now therefore in view of the facts and circumstance mentioned above I am of the view that a final decision in the matter can be taken only on the stand of the CBSE and the final outcome of the writ petition bearing number 4351/2013.

10. This disposes off the orders dated 15.01.2013 in WP(C) 238/2013 of Hon'ble High Court of Delhi.


(AMIT SINGLA)

DIRECTOR (EDUCATION)

To,

**Association for Social Education
& Voluntary Initiative**

No.F.4/2-09/2012-13/262/ 10473-476

Dated: - 14/08/13

Copy to: -

1. The Management of Jyoti Model Sr. Sec. School, Adarsh Nagar, Delhi.
2. DDE (North West-A), Directorate of Education.
3. OS (IT) with the direction to upload on website



(P. LATA TARA)
ADE (ACT-I)