



2026:DHC:9198



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

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Judgement reserved on: **25.09.2026**

Judgement delivered on: **15.10.2026**

+ **W.P.(C) 4413/2012**

RAJ RANI

.....Petitioner

versus

NCT OF DELHI & ORS

.....Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Shiv Charan Garg, Mr. Imran Khan and Ms. Jahanvi Garg, Advocates.

For the Respondents: Mr. Tanuj Khurana, Advocate for R-5.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J.

1. At the outset it may be appropriate to note that this Court had heard the learned counsel for the parties at great length on 27.02.2024 and passed the following order:

"1. In compliance of the order dated 05.02.2024, Mr. Rishikesh Kumar, learned ASC produced the original records pertaining to the decision taken on the application of the respondent nos.5 and 6-school seeking its closure.

2. The case of the petitioner was that the permission to close the school was obtained post facto vide the impugned order dated 09.03.2011, which is violative of Rule 46 of DSEAR, 1973.

3. The aforesaid issue is no more disputed in terms of the record produced by Mr. Kumar. Mr. Kumar has handed over the original office record

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By: YASHRAJ

Signing Date: 15.10.2026

18:01:02

W.P.(C) 4413/2012

Page 1 of 7



2026:DHC:9198



pertaining to the aforesaid dispute. This Court has perused the office noting dated 29.09.2010 entered by the Director of Education, whereby after considering the application of the management of the school, the proposal for approval of closure of the M. S. Public School, Tri Nagar w.e.f. 01.04.2009 was put up to the Competent Authority.

4. Mr. Kumar submits that after approval, a formal letter dated 09.03.2011 which is the impugned order, has been issued granting the post facto approval of the closure of the school. Learned ASC also submits that the usual formalities like the indemnity bond etc. were also obtained from the school. He also draws attention of this Court to the Memorandum of Settlement contained in the official file executed on 22.05.2010 between Mr. Yashovardhan Tyagi, i.e., the President of M. S. Education Society with some of the teachers of the M.S. Public. Mr. Garg submits that none of the teachers mentioned in the said impugned order are petitioners before this Court. Mr. Kumar also submits that the said Memorandum of Settlement is also part of the records.

5. It is apparent to this Court from a perusal of the original record of the Director of Education in respect of closure file of M.S. Public School / respondent nos. 5 and 6 that the approval was granted post facto.

6. It would be apposite to extract the provisions of Rule 46 of the Delhi School Education Rule, 1973 which is as under:-

“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.”

7. It is clear from the plain reading of the said rule that there are twin conditions which management of the school has to necessarily complete before any such approval is granted by the Director. One of such condition would be that the school has to give full justification as to why it seeks closure of the school and the second, more importantly, would be that the same cannot be done without the prior approval of the Director.

8. In the present case though the school may have provided some justification seeking its closure, but apparently from the records of the Directorate of Education, it is palpably clear that no such prior approval of the Director was obtained. In fact, apparently it was post facto. That apart there is another limb to Rule 46, that is, even the Director before giving any such an approval is required to consult the Advisory Board. The Advisory Board is constituted under the provisions of Section 22 of the Delhi School Education Act, 1973. The same is extracted as under

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By: YASHRAJ
Signing Date: 15.11.2025
18:01:02

WP(C) 4413/2012

Page 2 of 7



2026:DHC:9198



“22. Delhi Schools Education Advisory Board.—(1) There shall be an Advisory Board for school education, to be called the “Delhi School Education Advisory Board” for the purpose of advising the Administrator on matters of policy relating to education in Delhi. (2) The Advisory Board shall be constituted by the Administrator and shall consist of a Chairman and fourteen other members, to be nominated by the Administrator. (3) The Advisory Board constituted under sub-section (2) shall include— (a) Heads of recognised private schools; (b) representatives of the organisations of teachers of the recognised private schools; (c) managers of the recognised private schools; (d) representatives of parents or guardians of students of recognised private schools; and (e) eminent educationists. (4) The Advisory Board shall regulate its own procedure. (5) The terms of office of every member of the Board and travelling and other allowances payable to a member of the Board shall be such as may be prescribed.”

9. It is clear from the reading of the provisions of Section 22 of the DSE Act, 1973 that constitution of Delhi School Education Advisory Board is contemplated and which is to be constituted by the administrator. Such constitution would comprise a Chairman and 14 other members who are to be nominated by the Administrator. Under sub-Section (3) of Section 22 of the Act such constitution has been clearly mentioned.

10. It is beyond cavil that the Administrator according to the definition under Section 2(a) means the Administrator of the Union Territory of Delhi appointed by the President under Article 239 of the Constitution of India, which is the Hon’ble Lieutenant Governor. Nothing has been pointed by Mr. Kumar from the original records that any such Advisory Board has been consulted by the Director before granting such approval. There is nothing on record to show that such process of consulting the Advisory Board has not been delegated further to either the Director or other competent officer.

11. Be that as it may.

12. For the purposes of the present petition, the role of Advisory Board may or may not be relevant, since undoubtedly the approval was not prior and only post facto.

13. Proxy counsel appearing for Mr. Tanuj Khurana submits that Mr. Khurana, though was available in the pre lunch session, however, had to leave the Court for medical reasons. He seeks a short accommodation on the aforesaid ground.

14. Mr. Kumar clarifies that the actual approval was granted on 04.03.2011 followed by the formal order of approval dated 09.03.2011.

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By: YASHRAJ

Signing Date: 15.11.2025

18:01:02

WP(C) 4413/2012



2026:DHC:9198



15. Mr. Chandan Singh Rawat, Section Officer, Zone-11 and Mr. Deepak Kumar, Legal Assistant, Zone-11, DoE are also present in person from the Department of Education.

16. List on 05.03.2024.”

2. Upon perusal, it has come to the notice of this Court that in para 10 of the order dated 27.02.2024, there is an inadvertent typographical error. The order stands corrected and the corrected para shall be read as under:

“10. It is beyond cavil that the Administrator according to the definition under Section 2(a) means the Administrator of the Union Territory of Delhi appointed by the President under Article 239 of the Constitution of India, which is the Hon’ble Lieutenant Governor. Nothing has been pointed by Mr. Kumar from the original records that any such Advisory Board has been consulted by the Director before granting such approval. There is nothing on record to show that such process of consulting the Advisory Board has been delegated further to either the Director or other competent officer.”

3. From the above, it is apparent that this Court had principally and essentially agreed with the submissions of the petitioner. The matter was further kept for the arguments to be addressed by Mr. Tanuj Khurana, learned counsel for respondent no.5/M.S. Education Society.

4. Appearing for the respondent no.5/M.S. Education Society, Mr. Tanuj Khurana, learned counsel fairly submitted that the subject matter of this petition is no more *res integra* and has been clearly held against the propositions submitted on behalf of respondent no.5/M.S. Education Society. He placed reliance on the judgements passed by the Coordinate Bench of this Court in **“Vishwajyoti vs. Virender Kumar Sardana”**, CONT.CAS(C)1365/2016 & connected matters decided on 24.03.2026 as also in **“Asha Rani Gupta vs. Ravindrera Memorial Public School & Anr.”**, LPA 627/2018 dated 08.10.2024. While placing reliance on these judgements, learned counsel further requested

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By: YASHRAJ
Signing Date: 15.11.2025
18:01:02

WP(C) 4413/2012

Page 4 of 7



2026:DHC:9198



this Court to follow the procedure as prescribed by the Coordinate Bench of this Court in *Vishwajyoti* (*supra*).

5. Having regard to the aforesaid findings recorded in the order 27.02.2024, it is declared that respondent no.5/M.S. Education Society was not lawfully closed from 09.03.2011. The said closure is held to be in violation of Rule 46 of the Delhi School Education Rules, 1973.

6. That said, it may be apposite to consider the consequences that may follow the aforesaid declaration. The judgement of the Coordinate Bench in *Vishwajyoti* (*supra*) has been placed for consideration of this Court very fairly by learned counsel for respondent no.5/M.S. Education Society. Even learned counsel for the petitioner is agreeable for this Court to pass the similar directions as passed by the Coordinate Bench in *Vishwajyoti* (*supra*).

7. At this stage, it is appropriate to reproduce the relevant portions of the said judgement of the Coordinate Bench which may apply to the facts of the present petition. The same read thus:

“45. Accordingly, the following directions are issued:

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45.4 Liability to satisfy the directions in this order shall rest jointly and severally upon: (i) Respondent No. 1 school; and

(ii) such other entity or entities as may be determined by the Directorate of Education, in terms of this order, to have been in actual management and control of the school at the relevant time.

45.5 The Director of Education shall, within three weeks from today, nominate a responsible officer, preferably not below the rank of Deputy Director/Accounts Officer, to carry out a Petitioner-wise computation of dues in all four writ petitions. The Directorate shall, within eight weeks from today, undertake and conclude the exercise indicated above for determining the entity or entities in actual management and control of the school at the relevant time.

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By: YASHRAJ
Signing Date: 15.11.2025
18:01:02

W.P.(C) 4413/2012

Page 5 of 7



2026:DHC:9198



45.6 Within three weeks thereafter, each Petitioner shall file before the said officer a concise statement of claim setting out:

- (i) the period for which salary/emoluments are claimed;
- (ii) the claim, if any, based on implementation of the 7th Central Pay Commission from 1st January, 2016;
- (iii) gratuity, leave encashment, provident fund, pensionary or other retiral dues, wherever applicable; and
- (iv) amounts already received, if any. Within the same period, all concerned Respondents, including Respondent Nos. 1, 2, 6 and 7, shall produce before the said officer the complete service and pay records of every Petitioner, including appointment letters, pay fixation, increments, attendance/service books, resignation papers if any, retirement records if any, gratuity/PF details, and full particulars of payments already made.

45.7 The nominated officer shall give hearing to the concerned parties and shall, within eight weeks thereafter, prepare a reasoned Petitioner-wise computation. That computation shall include:

- (i) unpaid salary and emoluments for the admissible period, including statutory benefits such as maternity benefits, leave salary, and other service related entitlements, wherever applicable;
- (ii) arrears arising from the Petitioners' claim to revised pay, including 7th CPC, and claims based on ACP/MACP or other service progression benefits, to the extent found legally due and not already settled or paid;
- (iii) gratuity, leave encashment, provident fund, pensionary and other retiral dues, wherever applicable;
- (iv) adjustment of payments already made; and
- (v) simple interest at 6% per annum from the date each amount fell due until the date of actual payment.

The computation so prepared shall be binding as to quantification of dues, and liability to satisfy the same shall be enforced against the entity or entities identified by the Directorate of Education in terms of this order.

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45.11. The amounts so computed shall, upon determination of liability in terms of this order, be paid within four weeks thereafter. In default, the

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By: YASHRAJ

Signing Date: 15.11.2025

18:01:02

WP(C) 4413/2012



2026:DHC:9198



unpaid balance shall thereafter carry simple interest at 9% per annum until payment.

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45.13. The Director of Education shall also take a final, reasoned decision on the school's application for closure within ten weeks from today, after hearing the school, representatives of the staff, and the concerned managing bodies. While doing so, the Director shall proceed on the footing that there was no lawful closure till approval is granted. If closure is considered, it shall not be permitted to operate in a manner that wipes out accrued employee dues. The Director shall ensure, before granting any such approval, that the dues determined under this order are fully paid or adequately secured, and shall impose such conditions as are permissible in law.

45.14. The Director of Education shall, in the same exercise, take a reasoned view on whether action under Section 20 or any other regulatory provision of the Act and Rules is called for in light of the admitted position that the school stopped functioning without prior approval and withheld salaries thereafter.

46. The petitions are disposed of in the above terms. All pending applications also stand disposed of."

8. Accordingly, the directions contained in the aforementioned paragraphs of *Vishwajyoti (supra)* shall apply *mutatis mutandis* to the parties in the present petition. The timelines as prescribed shall also apply to the parties in the present petition.

9. In view thereof, the petition stands disposed of.

**TUSHAR RAO GEDELA
(JUDGE)**

OCTOBER 15, 2026

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By: YASHRAJ

Signing Date: 15.10.2026

18:01:02

WP(C) 4413/2012

Page 7 of 7