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

\+ LPA 49/2025 and CM APPLs. 3933-3935/2025

HARSHPAL SINGH NEGI .....Appellant

Through: Mr. Khagesh B Jha, Ms. Shikha Sharma Bagga, Mr. Ankit Mann, Mr. Naman Jain and Ms. Jyoti Shokeen, Advocates

versus

ST MARYS SCHOOL SAFDARJUNG ENCLAVE AND ORS .....Respondents

Through: Mr. Romy Chacko, Sr. Advocate with Mr. Sachin Singh Dalal, Mr. Ashwin Romy, Mr. Joe Sabastian and Mr. Akshat Singh, Advocates

Mr. Piyush Gupta, CGSC with Mr. Sudhanshu Sharma, Mr. Rohit Goyal and Ms. Deepanshi Gupta, Adv. for R4

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% 22.01.2025

C. HARI SHANKAR, J.

1. This Letters Patent Appeal is directed against judgment dated 16 December 2024 passed by the learned Single Judge in WP (C) 16578/2024[1].

2. In the view that we are taking, it is not necessary for us to detail

[1] **Harshpal Singh Negi v St. Mary's School, Safdarjung Enclave**

the trajectory of the litigation, or advert to all the issues in controversy. Suffice it to state that the services of the appellant, who was a Trained Graduate Teacher (Physical Education)[2] in the Respondent 1 School[3] was terminated on 3 September 2024. WP (C) 16578/2024 against which the present appeal emanates, challenged the said order of termination and also sought to question the minority status of the School. The learned single Judge has held that the writ petition was not maintainable on either challenge.

3. In so far as the aspect of challenge to the termination is concerned, the learned Single Judge, relying on a judgment of the Supreme Court in ***Shashi Gaur v NCT of Delhi***[4], has held that the appropriate authority which was required to be approached by the appellant was the Delhi School Tribunal[5]. Though this appeal assails the judgment of the learned Single Judge qua both the challenges raised in the writ petition, Mr. Jha, learned counsel for the appellant, fairly states that he would be amenable to approach the DST with respect to the challenge to the termination of his client, but prays that the DST may also be directed to consider the appellant's prayer for interim relief, if any such prayer is raised.

4. Qua the challenge to the termination of the appellant, therefore, the appellant would be at liberty to approach the DST in accordance with law. If any interim relief is sought, the appellant is at liberty to make a prayer to the said effect. The DST would consider the said

[2] "TGT", hereinafter
[3] "the School" hereinafter
[4] **(2001) 10 SCC 445**
[5] "the DST", hereinafter

prayer on its own merits in accordance with law.

5. In so far as the challenge to the minority status of the respondent is concerned, the basis of the appellant's challenge was that the School had not been established for minorities but for imparting secular education to all communities.

6. The learned Single Judge has not adverted to the merits of the said challenge, as she has held the challenge not to be maintainable in view of Section 12-C[6] of the National Commission for Minority Educational Institutions Act, 2004[7].

7. We find ourselves unable to subscribe to the decision of the learned Single Judge that the challenge, by the appellant, to the minority status of the School, could be raised before the NCMEI under Section 12-C of the NCMEI Act.

8. Section 12-C, quite clearly, empowers the NCMEI to cancel the minority status of an minority educational institution only in one of the two situations envisaged by the Section. The first is if the constitution, aims and objects of the educational institution had subsequently been amended in such a way that it no longer reflects the

[6] **12-C. Power to cancel**. – The Commission may, after giving a reasonable opportunity of being heard to a Minority Educational Institution to which minority status has been granted by an authority or Commission, as the case may be, cancel such status under the following circumstances, namely:—

(a) if the constitution, aims and objects of the educational institution, which has enabled it to obtain minority status has subsequently been amended in such a way that it no longer reflects the purpose or character of a Minority Educational Institution;

(b) if, on verification of the records during the inspection or investigation, it is found that the Minority Educational Institution has failed to admit students belonging to the minority community in the institution as per rules and prescribed percentage governing admissions during any academic year.

[7] "the NCMEI Act", hereinafter

purpose of character of a minority educational institution. The second is if, on verification of records, it is found that the minority educational institution has failed to admit students belonging to the minority community in the institution, as per the rules and prescribed percentage.

9. It is only, therefore, if the challenge to the continuing minority status of the Respondent 1 school was predicated on one of these two criteria, envisaged in clauses (a) and (b) of Section 12-C of the NCMEI Act, that the appellant could have been relegated to the NCMEI.

10. The challenge of the appellant to the minority status of Respondent 1 school is not predicated on either of the considerations envisaged by clauses (a) or (b) of Section 12C of the NCMEI Act.

11. The appellant's case was that the respondent was not entitled to be treated as a minority educational institution as it was imparting secular education.

12. We do not express any view of whether there is any substance in the appellant's challenge.

13. Mr. Chacko, learned Senior Counsel for the Respondent 1 school also seeks to contend that, as the NCMEI Act envisages cancellation of the minority educational status of the institution only on the considerations contemplated by clauses (a) and (b) of Section

12C, no legitimate challenge of the minority educational status of the institution, on any other ground, would lie.

14. On this contention, too, we refrain from expressing any opinion either way.

15. We deem it appropriate to remit the challenge, by the appellant, to the minority status of the School, to the learned Single Judge, for consideration *de novo*. We do so only because, in our view, as the ground of challenge was not one of the two envisaged by Section 12-C of the NCMEI Act, the writ petition could not have been held not to be maintainable on the ground that an alternate equally efficacious remedy existed.

16. As to whether such a challenge would lie on the ground urged by the appellant, and, if it does, as to whether the School is rightfully entitled to be regarded as a minority educational institution, remain open to agitation before the learned Single Judge.

17. In that view of the matter, this appeal is partly allowed in the following terms:

> (i) The decision of the learned Single Judge that the writ petition is not maintainable qua the challenge to the grant of minority status to the Respondent 1 school on account of availability of an equally efficacious alternate remedy under Section 12-C of the NCMEI Act, is quashed and set aside.

(ii) The challenge raised by the appellant to the minority status of the Respondent 1 school is remitted for reconsideration to the learned Single Judge in the light of the observations made above.

(iii) The challenge to the termination of the appellant would, however, have to be agitated before the DST. The appellant would be entitled to seek interim relief before the DST and, if interim relief is sought, the DST would take a decision thereon. We do not express any opinion regarding the merits of the challenge, by the appellant, to the termination of his services. The DST is requested to take up the prayer for interim relief, if made by the appellant before it, as expeditiously as possible.

18. The LPA stands disposed of in the aforesaid terms.

19. In order to expedite matters, both sides are directed to appear before the learned Single Judge on 7 February 2025.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 22, 2025*/yg*

Click here to check corrigendum, if any