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

+ CONT.CAS(C) 1133/2016 & CM APPL. 10202/2019, CM APPL. 14546/2019, CM APPL. 14547/2019, CM APPL. 19789/2019, CM APPL.47211/2019, CM APPL.47260/2019, CM APPL.55258/2019 and CM APPL. 26809/2020.

SOCIAL JURIST A LAWYERS GROUP

.....Petitioner

Through: Mr Ashok Aggarwal with Mr. Kumar Utkarsh, Advocates.

versus

DHARMENDER SHARMA & ORS

..... Respondents

Through: Ms. Awnish Ahlawat, Standing Counsel GNCTD with Ms. Tania Ahlawat, Mr N.K. Singh and Ms Palak Rohemetra, Advocates for DSSSB and DOE.

Mr.Harish Kumar Khinchi, Standing Counsel for EDMC/R-3.

Mr Nikhil Goyal and Mr Dushyant Sarna, Advocate for South DMC.

Mr.Raj an Sabharwal, Standing Counsel with Mr.Raghav Sabharwal, Advocate for R-4/North DMC.

Mr.Shanmuga Patro with Mr.Tarun Kumar, Advocates for the applicant in CMAPPL.19789/2019.

**CORAM:**

**HON'BLE MR. JUSTICE NAJMI WAZIRI**

**ORDER**

% **25.01.2021**

The hearing was conducted through video conferencing.

CM APPL. 2520/2021 (by petitioner/applicant for directions)

1. The South Delhi Municipal Corporation ('South DMC'), like the other municipal corporations in the city, runs primary schools up to

Class 5. To cater to 'school children with special needs', especially trained teachers/Special Educators are needed. According to the petitioner, for almost a decade the Special Educators have not been appointed. Only a few were appointed about four years so. The backlog of vacancies of teachers for 'children with special needs', is 1132.

2. For filling up the vacancies a very small exercise had to be done, sending a requisition to DSSSB for the specified vacancies. Why was this exercise not done? Why were they not appointed, is not yet known? Surely, it is not the case of the Municipal Corporation that 'children with special needs' are lesser human beings. Indeed, the converse would be the correct position i.e. 'children with special needs' need to be treated with priority. It would be expected of the South Delhi Municipal Corporation to display alacrity, care and compassion in making the necessary provisions for these children. Not filling up the vacancies for years on end, displays a callous neglect towards them.
3. In another case listed today [W.P.(C) 979/2021 *Deepalaya vs DDA*], again dealing with rights of 'children with special needs' this court has noted, *inter alia*:

“The learned Standing Counsel for the DDA submits that the DDA is constructing the wall only to protect its land. However, while the land will stay where it is, the resultant blocking of access to the school children will violate latter's right to education and special care. Each day is special. All the more, for children with special needs, who may be looking forward to

meet their friends at school or to meet their favourite teacher or the specially assigned caregiver. Such meetings and interactions may be the high-point of the day for each child. The duration of the children's being in the care of the school, would be reassuring to their parents who go about earning their livelihood. The blocking of access to the school will disrupt not only the children's education and special care but also disrupt the lives of many working parents. Their childhood is finite and must be replete with the happiest of memories. Each day of deprivation and care of schooling will cause an irreparable injury to them. No amount of costs imposed on any party could compensate for this loss. Therefore, such a situation must be obviated."

4. However, in the Municipal Corporation's case, the situation is much worse. The necessary Special Educators have not been appointed for a decade or so. One cannot even begin to fathom the deprivation of due care to the scores of school children with special needs. How does one console, comfort or encourage a child who is unable to run in the school playground or enjoy the swing ride, while her/his classmates do so with gay abandon. How does one help children to conquer their adversities despite their special needs? For years countless children would have been deprived the care of specially trained educators.
5. On 18.12.2020, this Court had directed, *inter alia* as under:

*" ...2. Learned counsel for the petitioner submits that till date the requisition has not been forwarded by the South Delhi Municipal Corporation to the DSSSB for conducting the examinations for selection of the Special*

*Educators.*

*3. Learned counsel appearing for the South Delhi Municipal Corporation submits that the file is pending before the Commissioner for necessary approvals and since the Commissioner was unwell and is presently in quarantine the case could not be processed.*

*4. Keeping in view the earlier orders passed by this Court the*

*South Delhi Municipal Corporation is directed to expedite the process and urgently send the requisition to DSSSB so that the process for recruitment can be initiated. The decision be taken by the Commissioner within three weeks from today...”*

6. Even today, the South DMC has not sent the requisition to the DSSSB so that the process for filling up the posts of Special Educators can be initiated. For this lapse, the South DMC shall pay costs of Rs.25,000/- to the petitioner within two weeks.
7. Should the requisition be not sent within two weeks, the Commissioner of the South Delhi Municipal Corporation shall file his personal affidavit explaining the default and shall remain present in the Court on the next date.
8. Renotify on 10.02.2021.
9. The already scheduled date of 03.03.2021 stands cancelled.
10. The order be uploaded on the website forthwith.

**NAJMI WAZIRI, J**

**JANUARY 25, 2021/rd**