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

+ W.P.(C) 4011/2020

QUEEN MARY SCHOOL NORTHEAST THROUGH ITS

PRINCIPAL/MANAGER Petitioner

Through Mr.Romy Chacko, Mr.Shakti Chand
Jaidwl and Mr.Varun Mudgal, Advs.

versus

DIRECTOR OF EDUCATION Respondent

Through Mr.Ramesh Singh, Standing Counsel
with Mr.Santosh Tripathi and Ms.Bhawna Kataria,
Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

08.07.2020

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This hearing is conducted through Video-Conferencing.

CM No. 14403/2020 (exemption)

The application is allowed subject to all just exceptions.

CM No. 14402/2020 (stay)

1. Issue notice.
2. Learned counsel for the respondent accepts notice.
3. This petition is filed by the petitioner seeking an appropriate writ to quash the Circular dated 18.04.2020 and to allow the petitioner School to charge the actual expenditure incurred by it during the lockdown period in the form of fees from the students. Other connected reliefs are also sought.
4. Learned counsel for the petitioner submits that he has grievances against three of the clauses of the Circular dated 18.04.2020 including Clause (i), Clause (viii) and Clause (x). This submission is made de hors his

contention that the Circular itself is ultra-virus the Delhi School Education Act.

5. For today's hearing, learned counsel for the petitioner has strenuously pointed out to Clause (i) of the Circular which states that no fee except tuition fee will be charged from the parents during the lockdown period. It is pleaded that Clause (viii) of the same Circular further states that in no case, the ID and password shall be denied for getting online access of educational facilities/classes/materials to those students who are unable to pay the school fee due to financial crisis arising out of closure of business activities.

6. Learned counsel for the petitioner further submits that taking unfair advantage of clause (viii), about 40% of the students are defaulting in payment of tuition fee resulting in grave financial crisis to the petitioner. It is pleaded that the petitioner are struggling to pay the salaries of the staff and the teachers.

7. Learned counsel for the petitioner further submits that the Division Bench of this court by its judgment dated 24.04.2020 passed in W.P.(C) 2993/2020 had stated that this provision should not be misused and it would be necessary for the parents seeking benefit of this relief to establish to the satisfaction of the school or the DOE that owing to the lockdown, they are in fact financially incapacitated from paying the tuition fee. He submits that the petitioner may be permitted to implement this interpretation/clarification given by the Division Bench vis-à-vis Clause (viii).

8. Learned standing counsel for the Government of NCT of Delhi states that regarding Clause (viii) of the said Circular dated 18.04.2020, the petitioner is free to take steps including issuing of a notice to the parents of those students who are defaulting in payment of tuition fee. An opportunity

may be given to the parents to explain as to whether they are suffering from any financial crisis. In case such parents are not able to satisfy/demonstrate the school regarding their financial problems, it is only in that eventuality that steps can be taken as per law by the school.

9. Keeping in view the above circumstances, where the parents are in default for payment of tuition fee for more than two months, the petitioner is free to issue an appropriate notice to such parents to explain the reason for the default. In case the parents are able to convince/demonstrate to the petitioner about their financial problems/financial incapacity to immediately pay the pending fees, the petitioner shall not take any further steps for the time being against such parents. Where the parents are unable to satisfy/demonstrate to the petitioner regarding their financial difficulties, the petitioner is free to so communicate the same to the parents and decline to provide them ID and Password for online education facility for the students. In case the parents have any grievance against such an order passed by the petitioner School, the parents are free to approach appropriate authority of the Government of NCT of Delhi/respondent.

10. List on 05.08.2020.

W.P.(C) 4011/2020

Issue notice.

Learned counsel for the respondent accepts notice.

Counter-affidavit be filed within three weeks. Rejoinder be filed within one week thereafter.

List for arguments on 05.08.2020.

JULY 08, 2020/rb

JAYANT NATH, J