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

% *Judgment Delivered on: 28.08.2025*

\+ **W.P.(C) 4476/2017, CM APPL. 19526/2017 & CM APPL. 19750/2022**

G.D. SONI DAV SR. SECONDARY SCHOOL .....Petitioner

Through: Mr. Alok Kumar, Sr. Adv. with Dr. Surat Singh, Mr. Mayank Yadav, Mr. Amit Kumar Singh, Mr. Tejaswin Suri, Mr. Varun Maheshwari, Mr. Manan Soni, Mr. Devvrat Sharma and Mr. Siddhant, Advs.

versus

DIRECTORATE OF EDUCATION & ANR .....Respondents

Through: Mr. Anubhav Gupta, Adv. for DoE.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J

1. By way of present writ petition, the petitioner assails the impugned order dated 02.12.2016 whereby the representation of the petitioner for demolition and reconstruction of the school building and conversion it into an unaided institution, was rejected on the ground that the proposal submitted by the petitioner does not appear to be in the interest of the institute, students and staff. The challenge has also been laid to the order dated 09.05.2017 whereby the request of the petitioner school for not admitting new students was rejected. Further, prayer has been made to restrain the respondents from taking any coercive action, citing violations of

their fundamental rights under Articles 14, 16, 19, and 21 of the Constitution of India.

2. The case set out in the present petition is that the petitioner is a Senior Secondary School, located at Pusa Road, New Delhi. Presently, the school operates as a government-aided institution, receiving 95% financial assistance from the Govt. of NCT of Delhi.

3. In 1961, the land in question was allotted to the Dayanand Anglo Vedic High School Shahpur City Trust & Management Society by the respondent no.2/Land & Development Officer (L&DO), functioning under the then Ministry of Works, Housing and Supply (now the Ministry of Urban Development), Government of India, for the purpose of establishing a school. Pursuant to this allotment, the school commenced operations in 1965 under the name "DAV Sr. Secondary School," which was later renamed "G.D. Soni D.A.V. Sr. Secondary School, Pusa Road, New Delhi."

4. The school building was constructed between 1966 and 1967. In view of the passage of nearly six decades, the structure has significantly deteriorated and is presently in a dilapidated condition, thereby necessitating immediate remedial action to ensure the safety and functionality of the premises for educational use.

5. In 2012, the respondent no.2/L&DO granted permission for the demolition and reconstruction of the existing school building. The school currently accommodates 484 students in a total of 24 rooms, of which 8 are in a precarious state, posing a serious safety hazard to occupants.

6. In light of these circumstances, the school repeatedly informed the respondent no.1/Department of Education (DoE) about the deteriorating structural condition and concurrently requested for permission to relocate

students to a nearby school. However, no response was received from the department for an extended period.

7. Eventually, the school received a communication from the respondent no.1/DoE Officer, Zone-28, advising it to submit a list of alternate schools for potential relocation of students. In compliance, the school provided the requisite list, but no formal approval was granted, leaving the matter unresolved.

8. On 31.08.2012, the petitioner-school deposited a sum of ₹1,68,116/- with the respondent no.2/L&DO towards damage charges towards proposed demolition. Further, on 01.10.2012, an amount of ₹1,54,99,162/- was deposited as additional coverage charges. Subsequently, on 25.10.2012, respondent no.2/L&DO granted formal approval for demolition and reconstruction.

9. In 2013, the school reiterated its concerns by way of representations to the respondent no.1/DoE Officer, Zone-28, highlighting the dilapidated state of the building through letters dated 20.05.2013 and 22.05.2013.

10. Even the Executive Engineer of the Public Works Department (PWD) conducted an inspection on 16.03.2015 and concluded that the structure was unfit for occupancy due to its dilapidated state, thereby posing a serious threat to the safety of students. This report was promptly brought to the attention of the respondent no.1/DoE for appropriate action.

11. Subsequently, the school submitted a representation to the Hon'ble Lieutenant Governor, seeking facilitation for the reconstruction of the unsafe building and requested necessary directions to relocate students during the reconstruction period.

12. It is pertinent to note that W.P.(C) 9455/2015 was earlier filed by the petitioner against the respondent no.1/DoE seeking permission for demolition and reconstruction of the school building. That petition was subsequently withdrawn in light of the filing of the present writ petition. However, during the pendency of W.P.(C) 9455/2015, this Court *vide* order dated 22.05.2012 permitted the demolition of existing school structure, based on the inspection report submitted by the PWD and certain assurances furnished by the petitioner school.

13. Pursuant to the permission granted for demolition, the petitioner school addressed a communication to the respondent no.1/DoE highlighting the urgent need of shifting the school operations from the existing premises then under demolition, to an alternative location. The petitioner sought allocation of another school building to facilitate the continued education of its students during the reconstruction phase.

14. Subsequently, the respondent no.1/DoE issued a show cause notice dated 11.06.2015 under Rule 20 of the Delhi School Education Act, 1973 [hereinafter the **'Act'**], calling upon the petitioner to show cause as to why the management of the school should not be taken over by the Government.

15. Thereafter, this Court, in the proceedings arising from W.P.(C) 9455/2015, directed the petitioner institution to make a representation to the respondent no.1/DoE authorities, including two proposals dated 03.08.2016, aimed at addressing the concerns raised and facilitating an amicable resolution of the matter. Relevant excerpts from the order dated 03.08.2016 reads as under:

> *"Learned counsel for the petitioner prays for some time to move are presentation to the respondents with the two proposals which the*

petitioner has. Let the representation be filed within one week. On such representation being filed, the respondents shall take a decision on the representation within a period of six weeks. On the petitioner demanding so, the petitioner would be given an opportunity to represent its case before the Directorate of Education."

16. In compliance with this Court's order dated 03.08.2016, the school submitted two separate proposals to the respondent authorities on 09.08.2016, inter alia, proposing to discontinue receiving government aid and expressed its intent to operate as a private unaided school at its own cost.

"Proposal No. 1

i. That the school has dilapidated building which was built in 1967 and even as per the latest report, six rooms deserve to be demolished and re-built. So the school is seeking No Objection Certificate from your good offices so that the entire school may be re-built with modern facilities for the purpose of running school only. In fact, we have got sanctioned plan from MCD and Map of sanctioned plan is attached herewith.

ii. The management will undertake the construction at their own expenses and it is assured that the construction will be completed within three years.

iii. The Management also undertakes to take care of existing employees and existing students. Obviously, during the construction period new or additional students cannot be taken. However, it is repeated that once the construction is completed, the building will be used for the purpose of running school only.

Under these circumstances you are requested to grant No Objection Certificate to the demolition of the building so that school building may be re-constructed to run the school with modern facilities within three years of starting of the construction.

Proposal No. 2

Invoking the liberty granted by the Court, the petitioner proposed to discontinue receiving government aid and expressed its intent

to operate as a private unaided school at its own cost. It was stated that:

i. That because today the speed and efficiency are the name of the game and privatization and investment are conducive to economic growth and social justice, we propose to stop taking any aid from the Government and run the school at our own cost.

ii. The management will take care of the existing students and existing employees.

iii The management also undertakes to abide by all the relevant laws. For example, taking students of weaker section as per Government policy. The President of the Management has already given an undertaking to defray all the expenses and the same is reiterated herein.

iv. It is further clarified that public interest in the education of students or those of weaker section or of employees or teachers will not be allowed to suffer if the government aid is stopped and management is allowed to run the school at its own expenses"

v. It would be appreciated if a personal hearing to the lawyer of the school Advocate Dr. Surat Singh is granted.

vi. Kindly give a notice of three working days in writing before personal hearing…"

17. The proposals made by the petitioner in its representation dated 09.08.2016 were subsequently rejected by the respondent no.1/DoE vide impugned order dated 02.12.2016. It was noted that the request to convert to a private unaided institution was not considered appropriate at that juncture as it would permit fee hikes, potentially denying access to economically weaker section students.

18. Subsequently, by a letter dated 17.04.2017, the school informed the respondent no.1/DoE that it was unable to admit new students. This request was turned down *vide* impugned communication dated 09.05.2017, which

referred the petitioner to the impugned speaking order dated 02.12.2016 and reiterated that the request for exemption from new admissions stood rejected.

19. The grievance raised in the present petition thus, stems from the urgent need for structural repair and redevelopment of the petitioner school's building. In that backdrop the petitioner had sought permission from the respondent no.1/DoE to convert the institution from a government-aided to an unaided school.

20. Mr. Alok Kumar, learned senior counsel for the petitioner, submits that in the impugned order dated 02.12.2016, the respondent no.1/DoE has taken a position that permitting the petitioner school to function as an unaided institution would be detrimental to the interests of the students and employees, however, the respondent no.1/DoE has adopted this stance without properly considering the clear and unequivocal undertaking furnished by the petitioner through its President.

21. Elaborating on his submission, he invites attention of the court to petitioner's representation dated 09.08.2016, particularly to paragraphs (iii) and (iv) of the second proposal, to submit that the petitioner had categorically assured the authorities that the cessation of government aid would not prejudice the admission of students from economically weaker sections, nor would it adversely affect the interests of the existing teaching and non-teaching staff.

22. He submits that conduct of the respondent no.1/DoE reflects a mechanical approach and a complete non-application of mind to the issues raised by the petitioner. Such arbitrary and indifferent conduct demonstrates an irresponsible exercise of the public power vested in the respondents.

23. Mr. Kumar submits that even the order dated 09.05.2017, whereby the respondent no.1/DoE rejected petitioner's request to refrain from admitting fresh students, is vitiated by illegality and non-application of mind. He contends that the said order also disregards petitioner's express assurance that upon reconstruction of the school building, due care would be taken to safeguard the interests of students belonging to economically weaker sections as well as the existing employees.

24. He submits that in the petitioner's representation dated 17.04.2017, it was clearly stated that the matter concerning the reconstruction of the school building was pending adjudication before this Court in W.P.(C) 9455 /2015 therefore, it was a practical not to increase the student strength during pendency of the matter, especially considering that only 12 rooms were available to accommodate 11 sections, with one room earmarked for extra-curricular activities. Despite these pressing considerations, the respondent no.1/DoE rejected petitioner's representation. Rather than adopting a constructive approach, respondent no.1/DoE began exerting undue pressure by involving police personnel and media representatives to compel the petitioner school to admit new students that further aggravates the hardship faced by the institution.

25. Mr. Kumar further submits that the findings recorded in the order dated 20.11.2015 passed in W.P. (C) No. 9455 of 2015 clearly acknowledges the structural vulnerability of the school building. The said order, based on the report submitted by Mr. Deepak Gupta, Principal Chief Engineer (Projects), PWD, specifically records that *"six rooms with semi-permanent structures on the first floor which according to Mr. Deepak Gupta's report require demolition, as their life is short."* In view of this

expert assessment, the continued insistence by the respondent no.1/DoE to compel the petitioner school to admit fresh students is wholly unreasonable, arbitrary, and unfair. Further, such an approach disregards the ground reality and endangers students' safety.

26. Mr. Kumar places reliance on the decision dated 23.10.2007 of a coordinate bench of this Court passed in W.P. (C) 6290-94/2006 titled as *Seth Beni Pershad Jaipuria Charitable Trust (Regd.) &Ors. vs. Govt. of National Capital Territory of Delhi & Anr.,* wherein it was held that there is nothing in the Act or the Rule framed thereunder which permits the authorities therein to compel the school to receive aid against its wishes. He submits that *intra-court* appeal against the aforesaid judgment, as well as SLP preferred thereafter, were also dismissed.

27. *Per contra*, Mr. Anubhav Gupta, learned counsel for the respondent no. 1/DoE, at the very outset, submits that permitting any modification, alteration, or conversion of the status of a school from aided to unaided, without explicit legal sanction, would set an undesirable precedent and open a pandora's box of similar requests from other institutions. Such a course of action, he contends, would have far-reaching implications and could seriously affect the interests of students, employees, schools, and all other stakeholders involved in the educational ecosystem.

28. Elaborating on his submission, he submits that once the grant-in-aid is stopped, the school will be free to charge fees from the students on the lines of private recognized schools. The students belonging to the poor sections will be denied admissions because they would not be able to afford fees.

29. He submits that the petitioner school was granted recognition and financial aid by the respondent with the clear stipulation that it shall

continue to function as a recognized and aided senior secondary school, strictly in accordance with the provisions of the Delhi School Education Act, 1973 and the Rules framed thereunder.

30. He submits that there is no specific provision in the DSEAR, 1973 permitting a school to voluntarily surrender grant-in-aid. However, Rule 43 of the DSEAR, 1973 vests the Administrator with the power to take decisions in matters not expressly covered under the Rules, provided such decisions are in the public interest, but invocation of Rule 43 in the present case does not justify accepting the petitioner's proposal to discontinue government aid and alter the status of the school from aided to unaided, as such a move would have far-reaching implications and is not in consonance with the broader objectives of public interest, particularly concerning the rights and welfare of students and staff.

31. Further elaborating, he submits that under Rule 146 of the Rules, aided schools are prohibited from charging any fee up to Class VIII. Further, as per Rule 147, the maximum tuition fee chargeable from students of Classes IX to XII is capped at Rs. 240/-, and no tuition fee can be levied from students belonging to Scheduled Castes and Scheduled Tribes, therefore, the prayer seeking conversion of the school's status from aided to unaided, if allowed, would prejudice the interest of the students belonging to the economically weaker sections of the society.

32. Additionally, Rule 126 of the DSEAR, 1973 entitles employees of aided schools to various service benefits including gratuity, pension, medical facilities, and provident fund. Thus, permitting such a conversion would deprive beneficiaries of these statutory protections and social welfare measures, thereby defeating the very objective of public aid in education.

33. He submits that petitioner school has been allotted a plot of land at concessional rate, and allowing conversion of status to unaided would undermine the very intent of this public allotment.

34. He contends that petitioner's reliance on the decision in ***Seth Beni Pershad*** (supra) is misplaced and distinguishable on facts, in as much as in the said case the land and building belonged entirely to the trust managing the school, in contrast, in the present case land was allotted to the petitioner school by respondent no.2/L&DO at concessional rates.

35. I have heard Mr. Alok Kumar, learned Senior Counsel for the petitioner, as well as, Mr. Anubhav Gupta, learned counsel for the respondent no.1/DoE.

36. The short question which arises for the consideration of this Court in the present petition is that whether the petitioner school, which does not want to receiving aid from the government and intends to run the school with its own funds, can be compelled to receive the aid.

37. For exploring the answer to the above question, it needs to be noted that the land was allotted by the respondent no.2/L&DO to Dayanand Anglo Vedic High School, Shahpur City Trust & Management Society in the year 1961 for the purpose of establishing the school. Pursuant thereto, the school was established which commenced its operation in 1965 under the name of "DAV Senior Secondary School" which was later re-named "GD Soni DAV Sr. Secondary School, Pusa Road, New Delhi".

38. The school building was constructed between 1966-67. The Act was enacted for better organisation and development of school education in the Union Territory of Delhi and for matters connected therewith or incidental thereto. The said Act came into force on 10.04.1973.

39. Section 4 of the Act provides for recognition of schools and the conditions prescribed therefor. By virtue of sub-section (6) of Section 4, every school existing at the time of enactment of the Act is to be deemed to have been recognised under Section 4 of the Act. It appears that since the school was already existed at the time when the Act came into force, therefore, it was recognised in terms of Section 4(6) of the Act. The school was also granted aid by the Government in terms of Section 6 of the Act, under which the recognized private schools are entitled to aid.

40. Under sub-section (2) of Section 6, the Authority Competent to grant aid may stop, reduce or suspend aid for violation of any of the conditions prescribed in that behalf.

41. Chapter VI (Rules 60 to 92) of the Delhi School Education Rules, 1973 [hereinafter the **'Rules'**] provides for the detailed procedure for granting of aid and the conditions laid down in respect thereof.

42. Rule 73 of the Rules categorises the aid into two categories namely – (i) maintenance grant and; (ii) building grant. Sub-rule (2) of Rule 73 further describes that maintenance grant shall be of two kinds namely; (i) the recurring maintenance grant, and (ii) non-recurring maintenance grant. Sub-rule (3) of Rule 73 mention the heads under which recurring maintenance grant could be granted. For ready reference, Rule 73 is reproduced hereinbelow:

> ***"73. Categories of aid***
>
> *(1) Aid shall be of two categories, namely:—*
> *(a) maintenance grant; and*
> *(b) building grant.*
>
> *(2) Maintenance grant shall be of two kinds, namely:—*

(a) recurring maintenance grant; and
(b) non-recurring maintenance grant

(3) The recurring maintenance grants are:—
(a) staff grant;
(b) provident fund grant;
(c) pension and retirement benefit granted) medical benefit grant;
(e) benefits specified in Chapter X;
(f) grants for the purpose of books and journals which are essential for the library; and
(g) grants for the acquisition of essential equipments of the school."

43. In terms of Rule 74 recurring maintenance is to be given to aided schools @ 95% of the difference between the school expenditure on the items in relation to which recurring maintenance grant may be made and balance 5% is to be made by the school from its own funds.

44. Rule 87 of the Rules stipulates the purposes for which the building grant may be paid and the purposes for which it is inadmissible. Rule 87 of the rules reads thus:

*"**87. Building grant***

(1) Building grant may be paid for the following purposes only to those schools which are qualified to receive maintenance grant, for:-

(a) purchase, construction or extension of school or hostel buildings;

(b) payment of debts incurred in the purchase, construction or extension of school or hostel building.

(2) No grant shall be admissible under sub-rule (1) for ordinary and extraordinary repairs and for the upkeep of a school building, and any grant made under clause (b) of sub-rule(1) shall be made only in special cases."

45. From the pleadings it was not clearly borne out as to the category under which the petitioner school was getting grant-in-aid, this Court *vide* order dated 07.07.2025 had listed the matter for clarification. Mr. Alok Kumar, learned Senior Counsel for the petitioner had submitted that the petitioner school had not received any building grant for the purpose of construction etc. The school was thus, directed to file an affidavit in that behalf.

46. In deference to the above direction, an affidavit duly sworn by the President of the Managing Committee of the petitioner school, was filed. The relevant paragraph from the said affidavit reads thus:

> *"2.... I state that the petitioner school did not receive any grant-in - aid for the building of the petitioner school at any time."*

47. It is also not the case of the respondent no.1/DoE that any building grant was paid to the petitioner school at any point of time. The position, which thus, emerges is that the petitioner school has been receiving grant-in-aid only towards maintenance.

48. Now coming back to the question formulated in para 36 hereinabove, it may be noticed that the same is no more *res integra*. Similar question arose for the consideration of this Court in ***Seth Beni Pershad*** (supra). A coordinate Bench of this Court after referring to various provisions of the Act, as well as, the Rules framed thereunder, observed that the recognition and aid are two separate and distinct concepts, while it is necessary that before the school is granted aid it must be recognised, it is not at all necessary that a recognised school must necessarily receive aid.

49. It was observed that there is no specific provision under the Act or the Rules whereby the competent authority has the power to reject the proposal of the school not to receive any further aid, however, the position would be different if the Government had given grant-in-aid in respect of the building of the school, since the Government having aided the setting up and construction of the building, would always have a stake in the same. The element of aid would be built into the building itself and, therefore, although, the school may stop receiving recurring maintenance grant it could still be styled as aided school.

50. It was further observed that if recurring maintenance grant is stopped, then nature of the school would immediately change from being an aided school to unaided school. It was thus, concluded that there is nothing in the Act or the Rules which permits the authorities therein to compel the school to receive aid against its wishes. The relevant extract from the said decision read thus:

> *"10.* ***A brief survey of the above mentioned provisions indicates that recognition and aid are two separate and distinct concepts. While it is necessary that before a school is granted aid, it must be a recognized school, it is not at all necessary that a recognized school must necessarily receive aid.*** *It has also been noticed that the power to grant aid also includes the power to stop, reduce or suspend aid in case of any violation of the conditions prescribed in respect of the said grant of aid.* ***There is no provision in the Act or the Rules which speaks of a situation where a school which was hitherto aided, proposes not to receive any further aid. This, obviously means that there is no specific provision under the Act or the Rules whereby the competent authority has the power to reject such a proposal.***

11. In this context, it would be instructive to examine the categories of aid. Rule 73 of the DSE Rules recognizes two categories, namely:- (a) maintenance grant; and (b) building grant. Maintenance grant is also of two kinds, namely:- (a) recurring maintenance grant; and (b) non-recurring maintenance grant. Rule 73 (3) of the DSE Rules specifies as to what is meant by recurring maintenance grants. They are:- (a) staff grant; (b) provident fund grant; (c) pension and retirement benefit grant; (d) medical benefit grant; (e) benefits specified in Chapter X; (f) grants for the purposes of books and journals which are essential for the library; and (g) grants for the acquisition of essential equipments of the school. Rule 74 prescribes that recurring maintenance grant shall be given to aided schools at the rate of ninety-five percent, of the difference between the approved expenditure on the items in relation to which recurring maintenance grant may be made and the income from fees and such other items as may be specified by the Director. It is obvious that the balance 5% has to be funded by the aided school itself. In the present case the said school has been receiving recurring maintenance grant in the shape of salaries of teachers and other staff and library expenses to the extent of 95% from the government. The balance 5% is provided by the petitioner trust. The aid, therefore, that is being received by the said school, is of a recurring nature. It is quite distinct from a building grant or a non-recurring maintenance grant which would be of an enduring and / or permanent nature. This distinction is material because ***if the government had given grant-in-aid in respect of the building of the school, then the school would not be in a position to suddenly turn back and say it is not an aided school merely by stopping to receive any recurring maintenance grant. This is so because the building is of an enduring nature and the government having aided in the setting up and construction of the building, would always have a stake in the same. The element of aid would be built into the building itself and, therefore, although the school may stop receiving recurring maintenance grants, it could still be styled as an aided school. The facts of the present case are somewhat different. The land and buildings have been provided by the petitioner trust. It has only been receiving recurring maintenance grant from the government.*** *Therefore, if such*

recurring maintenance grant is stopped, then the nature of the school would immediately change from being an aided school to an unaided school.

12. This discussion makes it clear that there is nothing in the Act or the Rules which prevents the said school from refusing to accept further aid from the government. There is also nothing in the Act or the Rules which permits the authorities therein to compel the school to receive aid against its wishes. *Therefore, I am of the view that the impugned letter dated 06.02.2006 is without the authority of law and is liable to be quashed. As a consequence the school would be permitted to alter its status from being an aided school to an unaided school and, therefore, the memorandum dated 22.04.2006 and the order dated 24.04.2006 would also have no further operation. The petitioners have already undertaken, and they are bound by it, that all the students, who are presently studying in the said school, would continue their education entirely at the cost of the petitioners and in the same manner as if the said school had continued to be an aided school. It would also be open to the teachers and the other staff of the said school to opt for continuing with the said school in terms of the offer made by the petitioners. The respondents 1 and 2 are also directed to consider absorbing the said staff members in their schools provided there are vacancies, in case the said staff members do not opt to continue with the said school."*

(emphasis supplied)

51. In view of the law exposited in ***Seth Beni Pershad*** (supra), the petitioner school, not having availed grant-in-aid for the building, is well within its rights to refuse the aid, as there is nothing in the Act or the Rules which prevents the school from refusing to accept further aid from the government. Likewise, there is no provision in the Act or the Rules which permits the respondent no.1/DOE to compel the school to receive aid against its wishes.

52. In so far as the apprehension expressed by the respondent no.1/DoE that the conversion of the status of the petitioner school from aided to unaided would seriously affect the interest of the students and employees of the school, is concerned, it may be noted that the school in its proposal submitted to the respondent no. 1/DoE *vide* its representation 09.08.2016 in paragraphs (iii) and (iv) of the second proposal had assured the authorities that cessation of grant-in-aid would not prejudice the admission of students from economically weaker sections as per the government policy, nor would it adversely affect the interest of the existing teaching and non-teaching staff. Further, the management also undertook to abide by all the relevant laws. Relevant paragraphs (iii) and (iv) of the second proposal reads thus:

> *"(iii)* ***The management also undertakes to abide by all the relevant laws. For example, taking students of weaker section as per Government policy.*** *The President of the Management has already given an undertaking to defray all the expenses and the same is reiterated herein.*
>
> *(iv)* ***It is further clarified that public interest in the education of students or those of weaker section or of employees or teachers will not be allowed to suffer if the government aid is stopped and management is allowed to run the school at its own expenses****."*
>
> (emphasis supplied)

53. In view of the above, apprehension of the respondent no.1/DoE is misplaced. Even otherwise, the stoppage of aid and consequent alteration in the status of the school from aided to unaided would not absolve the school of its obligation under the Act and the Rules framed thereunder. The school will still be bound by all the provisions of the Act and the Rules, including conditions subject to which recognition is granted to a school under Section

4(1) of the Act read with Rule 50 of the Rules. Further the recognized school is obliged to provide facilities as mentioned in Rule 51. Should the school fail to fulfil the requirement of the Act or any of the conditions in Rule 50 or Rule 51 at any stage, it shall be open to the respondent no.1/DOE to take appropriate action in accordance with Rule 56[1] of the Rules. Reference in this regard may also be had to the observations made in ***Seth Beni Pershad*** (supra), which reads thus:

> *"13. I have pointed out above that there is a distinction between the question of recognition and the issue of grant-in-aid. Consequently,* ***the fact that the petitioners are permitted not to receive aid does not mean that the petitioners can ignore stipulations with regard to recognition. For example, Rule 50 of the DSE Rules specifically provides the conditions for recognition. One of the conditions is that the school must serve a real need of the locality. This is provided in Rule 50(ii). Another condition, which ought to be kept in mind, is prescribed in Rule 50(iv) that the school is not run for profit to any individual, group of association of individuals or any other persons. Another important condition is given in Rule 50(v) and that is that admission to the school is***

[1] **56. Suspension or withdrawal of recognition—** (1) If a school ceases to fulfil any requirement of the Act or any of the conditions specified in rule 50 or fails to provide any facility specified in rule 51, the appropriate authority may, after giving to the school a reasonable opportunity of showing cause against the proposed action, withdraw for reason to be recorded in writing, recognition from the school:

Provided that where the appropriate authority is satisfied that the deficiencies or defects are capable of immediate or early removal, it may, instead of withdrawing the recognition suspend the recognition for such period as it may think fit to enable the managing committee of the school to remedy the deficiencies or defects to the satisfaction of the appropriate authority:

Provided further that where the recognition of a school has been withdrawn or suspended, no appropriate authority shall grant recognition of such school whether run by the name by which it was known at the time of such withdrawal or suspension or by any other name, unless the school has removed the deficiencies or defects for which the recognition has been withdrawn or suspended.

(2) A recognised school which provides for hostel facilities shall comply with the provisions of rule 39 and the instructions made thereunder, and in case of any default in complying with such provisions or instructions, the appropriate authority may for reasons to be recorded in writing, withdraw the recognition in relation to the school itself.

(3) Where recognition of any school is withdrawn, the reasons for withdrawal of such recognition shall be communicated to the managing committee within seven days from the date on which the recognition is withdrawn.

(4) Any managing committee aggrieved by the withdrawal of recognition of the school managed by it may, within thirty days from the date of communication to it of the withdrawal of recognition, prefer an appeal against such withdrawal to the authority specified in rule 58.

open to all without any discrimination based on religion, caste, race, place of birth or any of them. It would be necessary for the sake of completeness to also refer to Rule 56 of the DSE Rules which makes provision for suspension or withdrawal of recognition. If a school, inter alia, ceases to fulfill any requirement of the Act or any of the conditions specified in Rule 50, the appropriate authority is empowered, after giving to the school a reasonable opportunity of showing cause against the proposed action, to withdraw for reasons to be recorded in writing, recognition from the school. *These factors have been pointed out by me specifically so as to make the petitioners as well as the respondents aware, in case they weren't, that stoppage of aid and the consequent alteration in the status of the said school from aided to an unaided one, does not absolve the said school of its responsibilities under the said Act and the said Rules and that in case it wants to retain its recognition, the conditions for such recognition have to be complied with at all points of time. In case of any non-compliance, it shall be open to the respondents to take action under Rule 56 of the said Rules."*

(emphasis supplied)

54. In regard to the submission of respondent no.1/DoE that the petitioner school has been allotted land at a concessional rate, therefore, allowing conversion of status to unaided would undermine the very intent of such public allotment, it is to be noted that no grant-in-aid has been given to the school for the purpose of purchasing the land, nor allotment of land at concessional rate has any co-relation with the grant-in-aid under the Act. Needless to emphasize that in case the allotment of land has been made subject to any condition like granting of freeship to the student belonging to the weaker sections etc., the petitioner school shall remain bound by the same.

55. In view of the foregoing discussion, the impugned rejection order dated 02.12.2016 and the subsequent order of the respondent no.1/DoE dated 09.05.2017, are not legally sustainable, and are hereby quashed. The petitioner school is permitted to discontinue the receipt of aid from the respondent no.1/DoE, and the respondent no.1 /DoE is accordingly directed not to provide any further grant-in-aid to the petitioner institution. Consequently, the status of the school shall stand altered from aided to an unaided school.

56. The petition along with pending applications is disposed of.

VIKAS MAHAJAN, J

AUGUST 28, 2025
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