

REPORTABLE MATTER AS ON 27.02.2015

SUMMARY OF THE LEGAL CASES IN THE HIGH COURT AND SUPREME COURT WITH SOME DEVELOPMENTS

1) Justice Anil Dev Committee Report (8147 / 2009 & 7777/2009) (Division Bench of Delhi High Court)

The aforementioned writ petition was listed on 9.12.2014 as item no.59 before DB-II of the Hon'ble High Court of Delhi. The case was listed on applications being filed by a Private Unaided recognised schools challenging the recommendations of the JADSC w.r.t. Development Fee and its follow up order by DOE seeking implementations of the said recommendations and refund of Fee.

The undersigned informed the Hon'ble Bench that in a similar matter of Summerfields school, the matter has been sent back to the Single Bench as per roaster. The counsel for the applicants on being informed, withdrew his applications with liberty to approach the single judge as per roaster by filing substantive writ petition, the Hon'ble Court dismissed these applications as withdrawn with liberty.

The Writ Petition was taken up by the court at 5:20 PM and the matter was thereafter adjourned for 10th April, 2015

2) Mr. Rahul Chadha and ORSV/s Summer Field School &ORS (WP (C) 1128/2010) Quarterly Fee payment

The matter was listed for hearing on 19.01.2015, however, the court did not take up the matter and adjourned to 8.04.2015

4} Nursery Admission Matter WP (C) 177/2014

Hon'ble High Court of Delhi pronounced the judgment on 28.11.2014. In the landmark judgment private unaided schools have been given full autonomy to decide their admission criteria which should be based on the Principles of transparency and reasonability. The order of the Hon'ble High Court has been challenged by the Government of Delhi and the same has also be challenged by Abhibhavak Mahasangh through Mr. Ashok Aggarwal Social Jurist. The matter was listed for hearing on 5.12.2014. However, since the Government appeal is coming up for hearing on Wednesday 10.12.2014. Both the appeals are clubbed and to be heard on 10.12.2014.

The matter came up for hearing on 10.12.2014. The application for stay was dismissed. Next date of Hearing is 15.01.2015.

No hearing was done on 15.01.2015. The matter has been adjourned to 29.01.2015.

Sr. Advocate on behalf of Government of Delhi continued his argument on 9.02.2015. The matter is now adjourned for next hearing on 26.02.2015.

The matter was listed for hearing on 26.02.2015 finally did not come up on account of the absence of the Sr. Advocate appearing on behalf of the Directorate of Education. next date is 13.03.2015

5} Free Uniform and Books Distribution for EWS:

The matter came up for hearing on 4.12.2014 and same has been adjourned to 11.12.2014.

The hearing of the matter concluded today. Hon'ble Judge has categorically observed that the State Government has to reimburse the actual amount to the schools for the Uniform and the Text Books. Further the Hon'ble Court observed the schools having been allotted land by the Government agencies, 5% of the Tuition Fees shall be reimbursed to the schools. Copy of the judgment will come soon

The judgment is awaited

6) Property Tax Municipal Corporation of Delhi V/s Various Schools Matters SLP at Supreme Court of India 9522 / 2013

The matter pertaining to tax (Mahavir Jain) on the SC has been re-notified for 15.1.2015. As already informed, this matter would be listed in Court only after service of respondents and pleadings are complete in all the connected appeals filed by the MCD.

7) Action Committee V/s Directorate of Education WP (C) 3616/2013 Late Fee Fine

The matter was listed for hearing on 19. 01. 2015, however, the court did not take up the matter and adjourned to 8.04.2015

8) Seats for Disabled children in Private Unaided Schools Matter WP (C) 1225/2014

In pursuance of the order of the court to inspect the facilities claimed by the schools for teaching the disabled, the DoE informed the court that they have inspected the schools and the filled up questionnaire of each such school is put on the DoE website. The Court taking note of

this has closed the contempt proceedings against the Chief Secretary. However, the question as to whether 3% admissions can also be made out of 75% general category seats and not be confined to the 25% EWS seats, will be considered on the next date. The order shall be sent as soon as the same is made available.

The matter listed for hearing on 25.02.2015 was not finally taken up and adjourned to 04.03.2015.

9) Applicability of RTE Act to the 75% General Category Admissions

The matter Social Jurist is likely to come up on 09.01.2015, it is an appeal against the Division Bench of Delhi High Court that held that RTE does not apply to the children below the age of 6 years.

The matter came up for hearing before the court of Chief Justice on 09.01.2015. The Writ Petition has been admitted, however, the date of hearing will be notified. The matter is likely to come up not before the beginning of next year 2016.

10) WP Civil No. 4109 of 2013 Fee Hike Matter

PIL filed by Abhibhavak Mahasangh seeking a direction to the effect that the Director of Education (DOE) shall fix the fees of Private Unaided schools and that such schools shall not be allowed to increase the fees without the prior sanction of DOE. Action Committee is a party and has filed Writ Petition before Hon'ble High Court of Delhi

Matter is listed for hearing on 21.01.2015. The court has posted the matter for 25.03.2015 for hearing. Mr. Rakesh Khanna Sr. Advocate appeared alongwith Mr. Kamal Gupta Advocate on record.

Yours Sincerely

S. K. Bhattacharya

UPDATED REPORT AS ON 10.02.2015

SUMMARY OF THE LEGAL CASES IN THE HIGH COURT AND SUPREME COURT WITH SOME DEVELOPMENTS

1) Justice Anil Dev Committee Report (8147 / 2009 & 7777/2009) (Division Bench of Delhi High Court)

Fifth Interim Reports have been filed by the Committee.

The matter was listed before the Special Bench on 04.10.2013. However matter did not come for hearing and finally the matter was adjourned to 01.11.2013. On 1.11.2013 the tenure of Anil Dev Singh has been extended for another six months. On 18.12.2013 4th Interim report was submitted before the court.

Mrs. Avnish Ahlawat appearing on behalf of Government of NCT states that four interim reports have been submitted by the Committee. She submits that insofar as these reports are concerned, they are conclusive with regard to the schools mentioned in those reports. Consequently, she submits that she may be permitted to implement the recommendations as per the said report. The Government of NCT is free to do so.

The matter was heard on 19.03.2014 before Division Bench I in the High Court. The Hon'ble High Court permitted the review of the case of Rukmani Devi Public School, Pitampura. Regarding other two schools the review was not permitted by the Hon'ble High Court.

We are informed that the Fifth Interim Report has been received from Justice Anil Dev Singh. The digital copies of the same be made available to counsel for the parties.

On 01.11.2013 we had agreed with the suggestion of Mr. Agarwal, who was appearing on behalf of the petitioner, of requesting Justice Anil Dev Singh to continue as the Chairman of the Committee for at least six months so that the progress made in the matter is not hampered. That period of six months would be drawing to a close by the end of May, 2014.

Mr. Agarwal has made another suggestion that Justice Anil Dev Singh be requested to continue for another period of six months. We accede to this suggestion and request justice Anil Dev Singh to do so.

The matter came up for hearing on 1.08.2014 as Item No. 2 before H.M.J. B. D. Ahmad and H.M.J. Siddharth Mridul. The Court asked the counsel appearing for the Directorate of Education regarding the action taken against those schools against which have been asked to refund money along with 9% interest. The counsel replied that show cause notices have been issued to certain schools. The Government counsel also informed the Hon'ble Court regarding number of anomalies found in the report. The court directed the Government to file a status report within 8 weeks. The next date of hearing of the case is 28.10.2014.

Directorate of Education has sent show cause to 128 schools to explain why they should not refund the excess fee charges alongwith 9% interest. Action Committee has called a meeting of Principals / Secretaries of 128 schools to decide about joint action to be taken on 12.09.2014.

Directorate of Education Act Branch issued an order NO.DE.15/ACT/-I/F.H./JADSC/2014/26998-27005 dated 21.10.2014 regarding the compliance of Justice Anil Dev Committee Interim reports, the Directorate of Education has asked the schools who have charged excess fees on account of implementation of 6th Pay Commission to refund the excess fees alongwith 9% interest. There are 330 unaided recognized Private schools which have been identified by the Committee in five interim reports. Having understood the gravity of the matter the Action Committee of private unaided schools has decided to challenge the order. The Action Committee will challenge the order on two grounds.

- 1) On the common ground on the basis of deficiencies and errors committed by Justice Anil Dev Committee.
- 2) Each individual schools will also challenge on the basis of merit.

The matter appended before the High Court on 28.10.2014. Action Committee has now engaged two Sr. Advocate, Mr. Salman Khursheed and Mr. Rakesh Khanna. The Advocate on record for this case is Mr. Pramod Gupta. Vide letter dated 27.10.2014. Anil Dev Committee has requested High Court to allow the Committee to reopen the cases of six schools. In view of the limited revised criteria and for which permission of the High Court is sought. The WP on common ground will now be filed by the Action Committee very soon. The next date of hearing of the matter is 27.11.2014

The aforementioned writ petition was listed on 9.12.2014 as item no.59 before DB-II of the Hon'ble High Court of Delhi. The case was listed on applications being filed by a Private Unaided recognised schools challenging the recommendations of the JADSC w.r.t. Development Fee and its follow up order by DOE seeking implementations of the said recommendations and refund of Fee.

The undersigned informed the Hon'ble Bench that in a similar matter of Summerfields school, the matter has been sent back to the Single Bench as per roaster. The counsel for the applicants on being informed, withdrew his applications with liberty to approach the single judge as per roaster by filing substantive writ petition, the Hon'ble Court dismissed these applications as withdrawn with liberty.

The Writ Petition was taken up by the court at 5:20 PM and the matter was thereafter adjourned for 10th April, 2015

2) Mr. Rahul Chadha and ORSV/s Summer Field School &ORS (WP (C) 1128/2010) Quarterly Fee payment

This case was allowed by a Single judge holding that schools can only demand monthly payment of fees and not quarterly. The Action Committee preferred an Appeal before the Division Bench. The said Appeal was heard by different Division Benches on various occasions. On 20.3.2014 the Division Bench was pleased to allow the Appeal and set aside the order of the single judge. It was directed that schools may collect fees in quarterly installments but may accommodate any parent who may apply to them to pay fees monthly owing to financial difficulties. The matter was then placed before the Single Judge for decision afresh.

Thus, the case was listed before Justice Rajiv Shakhder on 25.3.2014, and was adjourned to 30.4.2014. On 30.4.2014 our advocate sought and was granted liberty to file additional affidavit/documents. Since the case is filed against Summerfields School only, we will have to move an application on behalf of the Action Committee to become a party in that petition.

There is an interim order in favour of the Action Committee that the schools shall be entitled to collect fee quarterly and any person having any financial difficulty may be accommodated on an application made by him to the Head of the School. The said matter was listed last before Justice Hima Kohli on 28.8.2014.

The matter was listed for hearing on 19.01.2015, however, the court did not take up the matter and adjourned to 8.04.2015

3) Property Tax Municipal Corporation of Delhi V/s Various Schools Matters SLP at Supreme Court of India 9522 / 2013

The SLP has been filed by the MCD Challenging the order passed by Division Bench of High Court, holding that levy of higher tax upon private schools on the basis of the amount of fee charged by them is unconstitutional.

Counter affidavit on behalf of Mahavira Foundation has already been filed. An application for vacation of interim order staying the refund of excess tax deposited by schools with MCD is to be filed for this purpose. Counter affidavit has been filed on behalf of the various institutions (Respondents) under the coordination of Action Committee.

Since there is a batch of matters, all would be listed before the Court only when pleadings and service in all the matters is complete.

Clarification regarding the Property Tax Matter

The tax matter in the Supreme Court is coming up before the Registrar (and not the Court) for completion of pleadings and service of parties in the other connected cases. Till such time the service and pleadings are not completed in all the connected matters, the cases will not be listed before the Court. As and when the Registrar would send it to court, We have already prepared and filed a detailed counter affidavit in the matter of Mahavira Jain School, which is being conducted on behalf of the Action Committee.

The matter pertaining to tax (Mahavir Jain) on the SC has been re-notified for 15.1.2015. As already informed, this matter would be listed in Court only after service of respondents and pleadings are complete in all the connected appeals filed by the MCD.

6) Supreme Court of India: Social Jurist V/s Government of India WP (C) 19887/2013 challenging the High Court order regarding Pre School admission matter

Ashok Aggarwal has challenged the judgment passed by Division Bench of HC holding that RTE Act does not apply to children below the age of six years and it is prayed in the SLP that all admissions be done by draw of lots only.

An application allowing Action Committee for intervention has been filed and a Senior Advocate is to be engaged for the purpose of arguing the same.

SLP(c) filed by Social Jurist is now listed before the Joint Registrar in SC on 24.7.2014. Action Committee shall become a party once the matter is listed before the Hon'ble Supreme Court.

7) Action Committee V/s Directorate of Education WP (C) 3616/2013 Late Fee Fine

This case was listed before the Division bench on 20.3.2014 when the Court ordered that the DoE shall take no coercive steps to compel the private schools to levy a late fee fine of 5 paise only. The matter has been sent to the Single Judge for decision. It was listed before Justice Rajiv Shukla on 25.3.2014, and was adjourned to 30.4.2014. On 30.4.2014 the case has been renotified for arguments on 28.8.2014.

There is an interim order in favour of the Action Committee that the DOE shall not take any coercive steps. The said matter was listed last before Justice Hima Kohli on 28.8.2014.

The matter was listed for hearing on 19.01.2015, however, the court did not take up the matter and adjourned to 8.04.2015

8) RTI Matter Rita Sen Vs. GNCTD WP (C) 7016/2011 & CM NO. 16085/ 2011 (FOR STAY)

This pertains to the applicability of the RTI Act to private unaided schools. In this case, challenging the order passed by CIC holding DPS, Rohini to be a Public Authority, an application was recently filed by the DoE, along with a detailed counter affidavit, requesting the court to condone the delay in filing of the counter affidavit. Since the courts are very liberal in condoning any delay of time on the part of government authorities, the delay was condoned. However, Hon'ble Judge agreed with our appeal to file an additional affidavit responding to the counter affidavit of the DoE. Date of 12.5.2014 has been postponed to 19.8.2014. The matter was last heard on 31.03.2014 by a single judge.

The matter came for hearing on 19.08.2014. The Hon'ble High Court has given the time for filing the rejoinder to the Petitioner and respondents

The matter was listed for hearing on 05.11.2014, however, the same has been adjourned to 23.03.2015

9) Nursery Admission Matter WP (C) 177/2014

- 1) The Writ petition was filed in the High Court for grant of stay against the impugned order of Lt. Governor dated 18. 12.2013. The matter was heard in the court of Justice Manmohan on 10.01.2014. Hon'ble Justice Manmohan after hearing did not grant stay against the order. However, the matter is listed for hearing on 11.03.2014.
- 2) Action Committee has decided to file an appeal before the Division Bench of High Court of Delhi. The same has been admitted. The matter will come for hearing on Monday 13.01.2014 before Division Bench in the second half.
- 3) The matter was heard before the Division Bench Justice of Nandrajog on 13.01.2014. The court reserved the order and a further statement was made that admission process need not commence until orders are pronounced.
- 4) The case was transferred to the Division Bench of Chief Justice and Justice Rajiv Sahai Endlaw. The matter was heard on 15.01.2014. Mr. Neeraj Kishan Kaul Sr. Advocate appeared on behalf of Action Committee. The order was reserved and finally the High Court pronounced the order on 20.01.2014
- 5) In the 32 pages order writ was dismissed.
- 6) During the pendency of these appeals, the process of admissions was kept in abeyance. The GNCTD to now forthwith notify the new date of commencement of admission process.
- 7) Action Committee of Private Unaided recognized schools has decided to move the Supreme Court. The writ has been filed and the matter is expected to come for hearing on Friday 24.01.2014. Sr. Adv. Mr. Harish Salve has agreed to appear on behalf of the Action Committee.
- 8) The SLP to appeal Civil No. 2106/ 2014 came for hearing before the Hon'ble Supreme Court of Justice H. L. Dattu and Hon'ble Justice SA Bobde on 24.01.2014. Since the two Sr. Advocate were busy in some other court the matter was listed for hearing on 31.01.2014. The matter appeared before the Justice Dattu and Justice Bobde on 31.01.2014. For the petitioners Sr. Advocate R. F. Nariman, Sr. Advocate Harish N Salve and Sr. Advocate Neeraj Kishan Kaul appeared. The following order was passed.

"We now request the Learned Single Judge of the Delhi High court to hear the writ petitions filed by various schools, forums etc. and make all endeavours to dispose of the writ petitions as expeditiously as possible, since it involves the interest of the schools and welfare of the children.

We also permit the petitioners herein to make an appropriate application before the learned Single Judge before whom the writ petitions are pending to advance the case from 11.03.2014 to any earlier date. If and when such application is made, we once again request the learned Single Judge to consider the same and pass appropriate orders. We clarify that we have not expressed any opinion on the merits of the arguments advanced by the learned senior counsel/counsel.

It is pertinent to note here that the High Court made the observation in paragraph 17 of the impugned order which reads as follows:

"It is not as if, it will be gone forever like chastity."

The above-said observation made by the High Court is uncalled for and is hereby expunged from the body of the judgment."

9) Application has been filed before the single judge bench of Hon'ble High Court of Delhi the court has decided for early hearing. The matter is listed on 24.02.2014

Mr. Neeraj Krishan Kaul Sr. Advocate has been appearing before Single Bench Court of Justice Manmohan. The hearing started on 24.02.2014 and till date Mr. Neeraj Krishan Kaul has appeared six times and he has put up a very strong argument challenging the lacunae and shortcomings in the order of the Lt. Governor dated 18.02.2013. The matter is still in the court and it may take another 8 or 9 hearings before the arguments are closed. In the meanwhile, on the directions of the Hon'ble High Court Lt. Governor issued a notification on 27.02.2014 whereby 5 points for the Interstate transfer have been abolished. The parents challenged the order and the Hon'ble High Court has given direction that the impugned order 27.02.2014 is stayed and it is directed that all candidates having equal marks shall be considered equally by conducting a fresh draw of lots whenever necessary. The matter is now listed for hearing on 25.07.2014.

10) Some parents have challenged the order of the Single Bench Order dated 6.03.2014 of the Court and the matter was heard on 12.03.2014. After hearing, the Division Bench of Chief Justice Ahmed and Justice Mridul passed the following order. Fresh draw of lots in terms of the order dated 6.03.2014 and LT. Governor Notification dated 17.02.2014 shall not take place and no admission shall be made till the next date.

Order of the Division Bench dated 03.04.2014:

"Mr. V.K. Gupta, learned Senior Counsel appearing on behalf of the appellant submitted that he is aggrieved by the interim order dated 06.03.2014 passed in W.P.(C) 1497/2014 because the order that has been passed is adverse to the appellants who are all those persons who have been successful in the first draw of lots carried out pursuant to the notification dated 18.12.2013 as modified by the notification dated 27.12.2013. All the appellants are those persons who have got 70 points only under the said notification in the open category on the basis of the neighbourhood criteria. He submitted that the appellant and all others who are similarly situated were successful in the draw of lots and as such they have avested right to admission. He further submitted that this vested right had been taken away by virtue of the impugned interim order inasmuch as their selection has been cancelled and a fresh draw of lots has been ordered. He further submitted that the appellants were not even parties to the proceedings before the learned Single Judge when the above mentioned order was passed against them. Furthermore, it was submitted by him that nobody had challenged the selection process in respect of the appellants and similarly placed persons all of whom were selected only on the basis of the neighbourhood criterion having obtained 70 points only. As a consequence it was submitted by Mr. V.K. Gupta that their selection ought not to have been disturbed.

After hearing Mr. Raju Ramachandran, the learned Senior Counsel appearing on behalf of the Department of Education as well as Mr. Nidhesh Gupta, the learned Senior Counsel appearing on behalf of respondents 1 to 12 (who were the petitioners in W.P.(C) 1497/2014) and after noting that the learned Single Judge himself was prima facie of the view that the inter-state transfer case category was validly done away with by virtue of the notification dated 27.02.2014, as also the fact that the appellant herein and those similarly situated were not parties before the learned Single Judge, the selection granted to the appellants and similarly situated persons ought to be confirmed. In other words, the first part of condition 3 of the notification dated 27.02.2014 would operate with full vigour. Insofar as the second part of condition 3 of the notification dated 27.02.2014 is concerned, we would defer our orders till the next date of hearing.

In the meanwhile, however, all those applicants who have been selected pursuant to the draw of lots concluded till date in more than one school, should, on or before 09.04.2014, choose one school thereby vacating the seats for the other schools. In case this choice is not made on or before

09.04.2014, they shall lose their right to any admission. The Directorate of Education shall collect the data from all the schools which shall fully co-operate with the Directorate of Education.

Till the next date of hearing no fresh draw of lots shall take place. The admission process in respect of those persons who have been permitted to be selected as above shall be completed and concluded. This order modifies the previous orders passed by us as also the impugned order."

On the next date the High Court i.e. 16.4.2014 the High Court re-notified the matter for 7.5.2014 as the SC had stayed its order.

- 11)** In the Supreme Court SLP to appeal (Civil) ____/2014 CC 6207 - 6208/ 2014 (from the judgment and order dated 03.04.2014 in LPA No. 237/2014. LPA No. 238/2014 of the High Court of Delhi at New Delhi) was heard in the court of Justice H. L. Dattu and Justice S. A. Bobde upon hearing counsel the court made the following order.

"The SLP is granted on 11.04.2014.

In the meantime the operation of impugned order of the Division Bench dated 3.04.2014 shall remain stayed until further order."

- 12)** The matter was listed for hearing in the Supreme Court on 28.04.2014. Action Committee has also filed an application before the Supreme Court to permit us to be a party so as to protect the interest of private schools in this matter. The SC has desired to know if 5-6 seats can be increased in all schools for this academic session only to accommodate the transfer category students.

Hon'ble Supreme Court of India vide judgment dated 07.05.2014 in Civil Appeal No. 5379-5380/2014 (Arising out of Special Leave Petition (C) Nos. 10265-10266 of 2014) in the matter of Major Saurabh Charan and others V/s Lt. Governor, NCT of Delhi and ors has directed as -

"In the circumstances, we direct that the admissions already granted to the appellants' children shall not be disturbed on the basis of impugned Notification dated 27th February, 2014 deleting points for Inter State Transfer. These children shall continue their study in those schools where they got admitted or selected for admission."

"In course of argument, Mr. Gupta, learned senior counsel appearing for the appellants, furnished a list of 22 parents having 24 candidates belonging to Inter - State Transfer Category, who are successful under Notification that these candidates are also entitled to get admission and continue study in those schools."

"Therefore, we direct that these 24 candidates shall get admission, if not at all admitted, being the successful candidates under the Inter - State transfer Category under Notification dated 18th December, 2013. It goes without saying that the Administration shall take steps to accommodate these students in various schools within its jurisdiction by increasing the number of seats in such schools. however, it is made clear that this order would only ensure to the benefit of those who had approached the court. It would certainly not extend the benefit to those who had not approached the court or might have gone in slumber.

With the aforesaid directions and observations, these civil Appeals are disposed of. Consequently, the writ petitions and the appeals pending in Delhi High Court also stand disposed of.

Writ petition regarding autonomy of private unaided schools regarding admission matter is listed before the single judge Bench of Justice Manmohan was listed for hearing on 22.05.2014 adjourned to 29.05.2014.

The department of Education is likely to file an affidavit with new criteria for admission for the coming academic session 2015 – 2016

Matter came up for hearing on 06.08.2014 before the Court of Justice Manmohan Government Counsel agreed to submit the Government decision regarding criteria for admission for Preschool and Pre Primary for the next academic session. The matter is fixed for next hearing on 22.08.2014.

The matter was fixed on 22.08.2014, however the matter could not come for hearing on the same day and ultimately the matter was heard on 26.08.2014. The Government Counsel informed that the file is with Chief Secretary and soon the Government will file its affidavit regarding admission criteria for preschool, pre primary for the coming session.

The matter regarding Nursery Admission was heard on 9th September, 2014 in the Court of Justice Manmohan. The Govt. Counsel was also present in the Court. He submitted that the Government has prepared the criteria and guidelines for admission for PS and Pre-Primary classes for the coming year 2015-16. Further he submitted that before announcement/issuance of Notification the major associations of public schools will be invited to give their reaction to the proposed criteria for admission.

He further submitted that in next ten days Notification shall be issued. The next date for hearing of the case is fixed on 19.09.2014

The matter pertaining to Nursery admission was argued on 30.09.2014 by the counsel for the Government. The arguments will continue. The next date of hearing of the matter was fixed on 13.10.2014. The Government counsel continued his argument on 13.10.2014. Mr. Rakesh Khanna Sr. Advocate appeared before the Hon'ble Court of Justice Manmohan for argument. The argument concluded and the Hon'ble High Court has directed the Government not to issue any notification till the judgment is pronounced.

On 05.11.2014 the Hon'ble Court passed the following order. The judgment is reserved. The court has restrained the Lt. Governor from bringing out any fresh guidelines as the same would render the entire exercise futile and infructuous. On the same day the Written Submission was filed before the Hon'ble High Court

Hon'ble High Court of Delhi pronounced the judgment on 28.11.2014. In the landmark judgment private unaided schools have been given full autonomy to decide their admission criteria which should be based on the Principles of transparency and reasonability. The order of the Hon'ble High Court has been challenged by the Government of Delhi and the same has also be challenged by Abhibhavak Mahasangh through Mr. Ashok Aggarwal Social Jurist. The matter was listed for hearing on 5.12.2014. However, since the Government appeal is coming up for hearing on Wednesday 10.12.2014. Both the appeals are clubbed and to be heard on 10.12.2014.

The matter came up for hearing on 10.12.2014. The application for stay was dismissed. Next date of Hearing is 15.01.2015

No hearing was done on 15.01.2015. The matter has been adjourned to 29.01.2015.

Sr. Advocate on behalf of Government of Delhi continued his argument on 9.02.2015. The matter is now adjourned for next hearing on 26.02.2015.

The matter was listed for hearing on 26.02.2015 finally did not come up on account of the absence of the Sr. Advocate appearing on behalf of the Directorate of Education. next date is 13.03.2015

10) Seats for Disabled children in Private Unaided Schools Matter WP (C) 1225/2014

The matter was listed before the Division Bench of Delhi High Court. The last hearing was on 29.05.2014 and has been re-notified for 16.07.2014. The High Court has asked the Directorate of Education to furnish various information/ data to the High Court with regard to the possibility of such admission for the current Academic Session 2014 - 2015.

Govt. of NCT of Delhi has relied upon an affidavit dated 16.07.2014 outlining the various steps taken up by it to comply with this Court's judgment dated 03.04.2014. The affidavit discloses that only a few unaided schools appear to have furnished information; Annexure-R5 contains the list of names of students admitted by some of those schools. In the opinion of this court, the affidavit has not given sufficient details with regard to the extent of facilities available in the concerned schools. Counsel for the Govt. of NCT of Delhi stated that most of the unaided schools are not responding to questions addressed to them in respect of the facilities available to differently able children for the purposes of admissions.

The Govt. of NCT of Delhi shall ensure that all information is made available in a time bound manner and issues instructions in this regard under Rule 43 of the Delhi School education Rule. This shall be supplemented, in addition, by zone-wise inspection of every school in a uniform format to collect all relevant information about availability of facilities in each school. Court was informed that pursuant to these directions dated 03.04.2014, Smt. Bimlesh Kumari, Deputy Director has been appointed as Nodal Officer.

The said officer shall continue to discharge the duties as Nodal Officer for at least one year from today. The Nodal Officer shall prepare a tabular statement indicating all steps undertaken by the Govt. of Delhi in compliance of the directions contained in the judgment. The statement should also indicate the time frame within which steps shall be undertaken. The statement shall be supported by her affidavit. The Govt. of NCT of Delhi shall issue instructions for considering the information to the eligible persons annexed to affidavit dated 03.04.2014.

This Court is of the opinion that Mr. Ravi Gupta, Senior Advocate should assist the Court; it hereby appoints him as Amicus Curiae. The Registry is directed to furnish a copy of the paper book and order sheet in Writ Petition (C) No.1225/2014 and Cont. Case (C) No.325/2014 free of charge to him.

The matter appeared for hearing on 24.09.2014. The following order were passed

It is stated that the previous order has been substantially complied with and an inspection carried out of over 800 schools in six districts. Learned counsel submits that the duly compiled report will be filed during the course of the day with advance copies to the learned counsel for the parties.

List on 30.09.2014 at 02.30 PM to enable the amicus and the petitioner's counsel to study the report and make submissions.

Issue appropriate directions under Rule 43 of Delhi School Education Rules and/ or Section 12(3) of The Right of Children to Free and Compulsory Education Act, 2009, and elicit all the requisite information with regard to

- a) The number of seats in respect of the kind of disability which each particular unaided school is geared, or equipped to cater to;
- b) The facilities specifically existing for that purpose;
- c) The fees to be charged from the pupils by such school
- d) The fees for disabled students vis-a-vis fees charged from other students.
 - i. Issue all appropriate directions to ensure even distribution of availability of seats for children with different disabilities? As far as it is practicable. In the different districts/zones of Delhi. This is to ensure minimal hardship to the children, who might otherwise have to travel long distances, just to attend the school.
 - ii. Obtain and furnish information with regard to the number and type of special educators/ teachers in each unaided school, which has facilities for disabled students.
 - iii. Indicate all the necessary information to enable the parents of the child to opt appropriately; such information shall be provided on the website of the GNCTD with proper links to the concerned schools, who may have their own websites.
 - iv. The above information shall be collated and necessary amendments/ changes to the application form carried out within the next three weeks.

The matter is listed for Next Date of Hearing on 18.11.2014 at 02:30 PM

The matter was heard by another Division Bench on Tuesday i.e. 17.11.2014. It was revealed during the hearing that about 360 schools have responded to a questionnaire/form put by the DoE on its website, requiring the private schools to furnish information as to facilities that they have to cater to disabled children. The Bench has ordered that each of such 360 schools who have claimed to be having some or the other facility, be inspected by a joint team of experts from the rehabilitation Council of India and the DoE, to ascertain and certify the exact, true and correct nature of facility.

The matter was listed on 19.12.2014 before the Division Bench. The High Court has desired the Government to make a Physical inspection / verification of the facilities for disabled children, as claimed by some schools having the facility. However, the Government instead of carrying out the inspection, cited administrative problems and filed an affidavit before the Division Bench that they would do the inspection after the Delhi election sometime in March 2015. The Division Bench on 22.12.2014 asked the Government to complete the task of inspection immediately and the matter will come for next hearing on 14.01.2015.

In pursuance of the order of the court to inspect the facilities claimed by the schools for teaching the disabled, the DoE informed the court that they have inspected the schools and the filled up questionnaire of each such school is put on the DoE website. The Court taking note of this has closed the contempt proceedings against the Chief Secretary. However, the question as to whether 3% admissions can also be made out of 75% general category seats and not be confined to the 25% EWS seats, will be considered on the next date. The order shall be sent as soon as the same is made available.

The matter listed for hearing on 25.02.2015 was not finally taken up and adjourned to 04.03.2015.

11) Free Uniform and Books Distribution for EWS:

The matter was listed for hearing on 05.08.2014 before the Division Bench. Advocate appearing on behalf of Action Committee argued that Rule is not required to be challenged since the Rule is beyond the Act and in such case the specific rule for free Uniform and Text Books should be ignored. It was appraised that the EWS category admissions are of two kinds, one under the RTE Act and the other under the Allotment Terms. The Rule providing for free books and uniforms can at best apply to admissions made under the RTE Act and not under the Allotment Terms. Supreme Court judgment has already clarified that Pre School and Pre primary does not come under the ambit of RTE. the allotment letter does not speak about free Uniform and Free Text Books. The court passed the following order

- a) The DoE shall file a fresh status report indicating the data as to how many EWS children have been given Free Textbooks and Uniforms in the Government and Private schools for the session 2014-15.
- b) Interestingly, the data is to be furnished by the private schools to the DoE, only w.r.t. EWS children between the age group of 6 to 14.
- c) The government should indicate the mode and manner in which they seek to reimburse the private schools for uniforms and textbooks.
- d) We have been directed to file our counter affidavit, a list of our members both within a week and also cooperate with the DoE in collecting data.

Matter was heard on 27.08.2014. The Hon'ble High Court passed the following order - The expression used in the affidavit to the effect - "A fixed amount for uniform" - is not acceptable inasmuch as it is not the fixed amount that has to be provided but the uniform. The Directorate of Education shall furnish an additional affidavit stating that what it was required to state by virtue of our previous order but which they have not done insofar as Government schools are concerned.

Apart from this, the Directorate of Education shall also furnish an affidavit stating the costs of textbooks as per the CBSE syllabus for each of the classes I to VIII. They shall also indicate the total costs for the uniform both summer and winter required for children for classes I to VIII.

Respondent Nos. 2 and 3 shall also indicate the average costs of uniform that prescribed in their schools for students going to classes I to VIII. These affidavits shall be filled before the next date of hearing. The counter affidavits, if necessary, be filed by the respondents latest before the next date of hearing.

An application for amendment has been filed by the Action Committee pertaining to free books and uniforms before the Hon'ble High Court on 30.10.2014. The judges categorically reiterated that they are of the view that it is the responsibility of the Government to provide actual funding for Uniform and text books. The matter has been re modified for 17.11.2014.

The matter was listed before the Division Bench on Tuesday i.e. 17.11.2014 but could not be taken up for hearing till 4.30 and the bench has renotified the same for hearing on 26.11.2014

The matter came up for hearing on 4.12.2014 and same has been adjourned to 11.12.2014.

The hearing of the matter concluded today. Hon'ble Judge has categorically observed that the State Government has to reimburse the actual amount to the schools for the Uniform and the Text Books. Further the Hon'ble Court observed the schools having been allotted land by the Government agencies, 5% of the Tuition Fees shall be reimbursed to the schools. Copy of the judgment will come soon

The judgment is awaited

12) Applicability of RTE Act to the 75% General Category Admissions

The matter was listed before the Joint Registrar in the Supreme Court. An application for intervention on behalf of the Action Committee has already been filed and is registered. The said application shall be placed before the Court along with the main petition in due course of time, which I shall be intimating to you as soon as the same is reflected on the website of the Supreme Court.

The matter Social Jurist is likely to come up on 09.01.2015, it is an appeal against the Division Bench of Delhi High Court that held that RTE does not apply to the children below the age of 6 years.

The matter came up for hearing before the court of Chief Justice on 09.01.2015. The Writ Petition has been admitted, however, the date of hearing will be notified. The matter is likely to come up not before the beginning of next year 2016

13) Fee Matter - Bal Bharati Public School Brij Vihar - WP 26289/ 2014:

In the writ the Hon'ble High Court was requested to stay the effect and operation of the impugned Government order dated 11th October 2011 issued by the Secretary Basic Education UP (Annexure 1) and the consequential impugned order dated 25th April 2014 issued by the District Magistrate Ghaziabad (Annexure 2).

On 9th July 2014 the court has passed orders that no. coercive steps will be taken pursuant to the order of the District Magistrate dated 25th April 2014. As per the opinion of the Advocate the school is free to realise the new fee and the order of the District Magistrate does not come in our way at all now.

Case was again taken up by the court on 12th August 2014. The Standing counsel has requested the court for three weeks further time to file counter affidavit. The court has allowed the same and extended the interim protection granted to the School till the next date of listing.

No new date has been fixed for the next hearing.

14) WP Civil No. 4109 of 2013 Fee Hike Matter

PIL filed by Abhibhavak Mahasangh seeking a direction to the effect that the Director of Education (DOE) shall fix the fees of Private Unaided schools and that such schools shall not be allowed to increase the fees without the prior sanction of DOE. Action Committee is a party and has filed Writ Petition before Hon'ble High Court of Delhi

Matter is listed for hearing on 21.01.2015. The court has posted the matter for 25.03.2015 for hearing. Mr. Rakesh Khanna Sr. Advocate appeared alongwith Mr. Kamal Gupta Advocate on record.