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

+ WP No. 8763/2015

INDEPENDENT THOUGHT ... Petitioner
Through: Mr.Vikram Srivastava and
Ms.Leena Prasad, Advocates

Versus

UNION OF INDIA ... Respondent
Through: Mr.Navin Chawla, Mr.A.V.
Singh, Mr. Amit Dogra, Mr.Siddhant, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **17.05.2016**

1. This public interest litigation has been filed seeking a declaration that the expression "Other than a school established, owned or controlled by the appropriate government or the local authority" in Section 18 (1) of Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as 'the RTE Act'), is unconstitutional and liable to be struck down. A further declaration is sought that there shall be an independent body to regulate and monitor the norms and standards of quality in all schools that are covered under the RTE Act.

2. Section 18 of RTE Act provides that no school shall be established or function after the commencement of the Act without obtaining a certificate of recognition from such authority by making an application in such form and manner as may be prescribed. Proviso to Section 18(2) makes it clear

that no such recognition shall be granted unless the school fulfils norms and standards specified under Section 19. The norms and standards under Section 19 are specified in the Schedule which included pupil-teacher ratio, building, minimum number of working days, teaching learning equipment, library and etc. However, Section 18(1) expressly excludes the schools established, owned or controlled by the appropriate government or the local authority from obtaining certificate of recognition.

3. The contention of the petitioner is that the exclusion of the government school from the scope of Section 18 is contrary to the object sought to be achieved under the RTE Act and that the same is violative of Articles 14 and 21A of the Constitution of India. It is further contended that the education contemplated under Article 21A is not mere education but quality education and therefore all schools including government school must have basic infrastructure and adequate number of well qualified and trained teachers.

4. In the counter affidavit filed on behalf of the Union of India, Ministry of Human Resource Development, it is stated that though the RTE Act does not contain a provision for recognition of Government Schools, Section 19 clearly states that the Government Schools must meet the requirements of the Schedule. Section 19(2) further provides that any school whether Government or private which does not fulfil the prescribed norms and standards shall do so within a period of three years from the date of commencement of the RTE Act. It is also stated in the counter affidavit that though in the RTE Bill as introduced in the Parliament, Section 19(1) contained a comma which gave rise to a misconception that government schools do not require to meet the norms and standards prescribed under the

Act, a corrigendum has been issued by the Office Memorandum dated 09.06.2010 deleting the comma after the words “or recognised” and making applicable the provision for meeting norms and standards to all schools.

5. Having given our thoughtful consideration to the controversy involved, it appears to us that mere corrigendum vide Office Memorandum dated 09.06.2010 without amending Section 18(1) of RTE Act may not be sufficient to accept the submission on behalf of Union of India that the Government schools are not excluded from complying with the prescribed standards of quality. We are also of the view that various other issues raised in the writ petition to ensure quality education is provided in schools owned or controlled by the Government or the local authority require deeper consideration in public interest.

6. We, therefore, consider it appropriate to direct the respondent to file an additional counter affidavit furnishing in detail the mechanism in place for regulating and monitoring the standards in the Government schools in terms of the Schedule to the RTE Act and as to whether the Government schools have fulfilled the said norms and standards as of today.

7. The same be filed within six weeks from today. Rejoinder, if any, by the petitioner within two weeks thereafter.

8. Re-notify on 08.08.2016.

CHIEF JUSTICE

JAYANT NATH, J.

MAY 17, 2016

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