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

+ W.P.(C) 888/2024

SOCIAL JURIST, A CIVIL RIGHTS GROUP ..... Petitioner  
Through: Mr. Ashok Agarwal, Mr. Manoj  
Kumar and Ms. Ashna Khan,  
Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS. .... Respondents  
Through: Mr. Shadan Farasat, ASC for GNCTD  
with Ms. Hrishika Jain, Advocate  
Mr. Sanjeev Sagar, Standing Counsel  
with Ms. Shivangi Kumar, Addl.  
Standing Counsel for MCD

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Date of Decision: 29<sup>th</sup> April, 2024

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

### **JUDGMENT**

**MANMOHAN, ACJ (Oral):**

1. Present Public Interest Litigation ('PIL') has been filed highlighting the fact that 2,69,488 students studying in the schools run by Directorate of Education, GNCTD and 3,83,203 students studying in the school run by Municipal Corporation of Delhi ('MCD') are being deprived of the statutory benefits like uniform, writing material, text book, stationery items, school bags, scholarship, etc. as available to them under the Right of Children to Free and Compulsory Education Act, 2009 ('RTE Act') read with Delhi School Education Act, 1973 and Delhi Right of Children to Free and Compulsory Education Rules, 2011 ('RTE Rules').



2. It is stated that the failure of GNCTD and MCD in providing the aforesaid statutory benefits to the students in a timely manner is arbitrary, unethical and violates the Fundamental Right of Education guaranteed to the students under Article 21-A of the Constitution.

3. It is stated that as per Rule 8 of the RTE Rules, all the students of the GNCTD and MCD run schools are entitled to free text books, writing material and uniform. It is stated that however, both GNCTD and MCD in lieu of providing free text books, writing material and uniform, are transferring cash into the accounts of the students.

4. It is stated that the Chief Auditor, MCD, in his Audit Memo dated 14<sup>th</sup> November, 2023<sup>1</sup> has reported that 3,83,203 students studying in MCD run schools have been deprived of these statutory benefits for want of bank accounts since the academic years 2016-17 to 2022-23. It is stated that similarly, the Directorate of Education, GNCTD's ('DoE') circular dated 29<sup>th</sup> December, 2023<sup>2</sup>, records that approximately 2,69,488 students studying in GNCTD run schools have also been denied statutory monetary benefits in the absence of operational bank accounts.

5. Mr. Ashok Aggarwal, learned counsel for the Petitioner has relied upon the reply affidavit of DoE dated 23<sup>rd</sup> March, 2023, filed in CONT. CAS (C) No. 920/2018 in W.P.(C) No. 3684/2013. He stated that in this affidavit, the GNCTD has stated, before this Court, that complete set of text books is being provided, free of cost, to all the students from classes 'pre-school' to 'VIII' in all government run schools, after getting them printed through Delhi Bureau of Text Books; in addition to work books and other

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<sup>1</sup> Annexure P-2 to the PIL

<sup>2</sup> Annexure P-3 to the PIL



supporting materials. In addition, GNCTD has represented that writing materials (note books and stationery) shall be provided 'in kind' to the students w.e.f. academic session of 2023-2024 and in this regard, the Heads of the School(s) have been authorised to purchase writing materials and distribute it to the students in the said schools from the session of 2023-2024. Also, with respect to uniforms, GNCTD has stated that Head of school(s) will be empowered to procure the uniforms and supply it to the students from the academic session 2024-2025, however, until then cash shall be paid over to the students for the academic session of 2023-24.

6. He stated that therefore, it is imperative that pending the resolution of the issue of opening of bank accounts, the MCD can forthwith provide the statutory benefits 'in kind' to its students instead of cash so that they are provided the statutory guaranteed uniforms, note books, stationery items, school bags, etc. for the current academic session of 2024-2025 so that the Fundamental Rights of the students are protected.

7. He stated however, as this Court is aware that in a separate PIL i.e., W.P.(C) No. 13436/2022, this Court is also adjudicating on the issue of non-provision of the free text books and free writing material to the students in GNCTD run schools for the academic session 2024-25 till date, though the session has commenced on 1<sup>st</sup> April, 2024 and is scheduled for closing for summer break on 10<sup>th</sup> May, 2024. He stated that the students in the government run schools will be finishing the opening session without having received the text books, which raises a moot question with respect to quality of education received by them during this period.

8. He stated that the issue of absence of infrastructure in form of dilapidated buildings, class rooms, etc. in the schools of GNCTD and MCD



has also been highlighted by the present Petitioner and is being considered by this Court in W.P.(C) No. 14964/2023. He stated that there are schools which are entirely being set up and run in a tin-shed and the students and teachers studying and teaching respectively in such schools are facing hardships during the summer months. He stated that there are schools without any furniture and children sit on the floor to take classes. He stated that the issue of broken desks and chairs in schools is a pressing issue arising in all the schools.

9. Notice was issued in this petition on 22<sup>nd</sup> January, 2024 and the Respondent authorities i.e., GNCTD and MCD, were directed to file their affidavits. This Court vide order dated 10<sup>th</sup> April, 2024, had directed the Commissioner, MCD, to join the proceedings on 23<sup>rd</sup> April, 2024, to apprise this Court with respect to the status of provision of statutory benefits as per the RTE Act and Rule 8 of the RTE Rules to the students studying in MCD schools for the academic session of 2024-2025, which commenced on 1<sup>st</sup> April, 2024.

10. The Respondent No. 3, MCD, filed its affidavit dated 20<sup>th</sup> April, 2024, wherein it admitted that as on that date 2,19,457 students (which equals to 27.84%) enrolled in MCD run schools do not have operational bank accounts and therefore, the cash in lieu of statutory benefits have not been provided to the said students.

11. In this affidavit, it is acknowledged that MCD is liable to provide statutory benefits such as school bags, note books, stationery, uniforms etc. to the students 'in kind' instead of cash; and, for the academic session of 2022-2023, these statutory benefits were provided 'in kind' to the students enrolled in MCD schools. It is stated that however, for the academic session



of 2023-2024, these statutory benefits could not be provided 'in kind' to the students as procurement could not be done and therefore, these benefits were paid over in cash to students, who had a bank account. It is admitted that in the academic session of 2023-2024, 2,73,346 students were deprived of the statutory benefits guaranteed to them under the RTE Rules, due to the absence of the bank accounts.

12. The Commissioner, MCD, who joined the proceedings through video conferencing on 23<sup>rd</sup> April, 2024, apprised this Court that the statutory benefits for the academic session 2023-2024 could not be provided 'in kind' to the students as he as the Commissioner does not have the requisite financial power to award contracts for procurement of these statutory items and that the Standing Committee of MCD, which has the requisite financial power, is non-functional.

13. The Commissioner, MCD, admitted that similarly for the current academic session of 2024-2025, MCD has been unable to procure the statutory benefits i.e., uniforms, note books and stationery items, school bags, etc. for distribution 'in kind' to the students as MCD has been unable to award contracts for procurement of the said items due to the lack of requisite financial power. The Commissioner stated that only the Standing Committee has the power and jurisdiction to award contracts worth more than INR Five crores and these contracts are in excess of the said financial limit. He therefore expressed his inability to comply with the statutory obligations towards the students.

14. This Court would like to note that the non-constitution of the Standing Committee of MCD since 2023 is a matter of record and the consequent impasse and its effect of non-procurement and non-provision of statutory



benefits of uniforms, note books and stationery items, school bags etc. to the students studying in the MCD schools, first for the academic session of 2023-24 and now 2024-2025 is an undesirable and sorry state of affairs.

15. In addition, the Commissioner, MCD admitted that students in MCD schools have not received text books from GNCTD as the same are still in the process of printing and procurement by GNCTD. The current academic session has commenced on 1<sup>st</sup> April, 2024 and schools will be closed from 10<sup>th</sup> May, 2024, onwards for summer break. Therefore, the students have effectively finished the opening session without text books, note books, writing materials, stationery items etc. In light of aforesaid facts, this Court fails to imagine the poor quality of education imparted to the students during this opening session in the absence of these critical items to which the students are entitled statutorily and constitutionally.

16. In these facts, on 23<sup>rd</sup> April, 2024, this Court expressed a prima facie opinion that the vacuum created due to the non-constitution of the Standing Committee should be addressed by delegating enhanced financial power to the Commissioner, MCD, by an appropriate authority in GNCTD, so as to enable the Commissioner to award contracts for procurement of these statutory benefits for the students of the MCD schools. The relevant extract of the order dated 23<sup>rd</sup> April, 2024, reads as under:

*“3. The Commissioner, MCD who has joined the proceedings online states that while textbooks are distributed in kind to the students, cash reimbursement is given to the students for purchase of uniform and stationery. He, however, admits that since nearly two lakh students do not have any bank account, uniform and stationery reimbursement has not been made to these students. He points out that one of the major reasons for non distribution of notebooks, stationery items, uniforms and school bags is ‘non-formation of Standing Committees’. The Commissioner, MCD states that only the Standing Committee has the power and jurisdiction to award contracts worth more than five crores.*



***4. This Court is of the prima facie view that there cannot be a vacuum and if the Standing Committee is not available for any reason, the financial power needs to be delegated forthwith to an appropriate authority by the GNCTD. Let the needful be done within two working days.”***

(emphasis supplied)

17. The matter was adjourned to 26<sup>th</sup> April, 2024 to enable GNCTD to take steps to this effect and report the outcome.

18. At the outset, Mr. Sanjeev Sagar, learned counsel for MCD handed over additional documents<sup>3</sup> being office note dated 18<sup>th</sup> September, 2023, issued by Commissioner, MCD, to Chief Secretary, GNCTD requesting for enhancement of financial powers with justification. The said note reads as under: -

**“ENHANCEMENT OF FINANCIAL POWERS OF COMMISSIONER, MCD**

*The Section 202 of DMC Act provides for procedure for making contract on behalf of the Corporation by the Commissioner.*

***“202. Procedure for making contracts* With respect to the making of contracts, the following provisions shall have effect, namely:—**

*(a) every such contract shall be made on behalf of the Corporation by the Commissioner;*

*(b) no such contract, for any purpose which in accordance with any provision of this Act the Commissioner may not carry out without the approval or sanction of the Corporation or some other municipal authority shall be made by him until and unless such approval or sanction has been duly obtained;*

*(c) no contract which will involve an expenditure exceeding ten lakh rupees or such higher amount as the Government may from time to time, fix, shall be made by the Commissioner unless the same is previously approved by the Standing Committee; and*

*(d) every contract made by the Commissioner involving an expenditure exceeding one lakh rupees but not exceeding ten lakh rupees or such higher amount as may be fixed under clause (Cc) shall be reported by him, within one month after the same has been made to the Standing Committee.”*

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<sup>3</sup> Under cover of index dated 23<sup>rd</sup> April, 2024



2. *The powers of the Commissioner to involve expenditure, which was limited to Rs.25.00 lakhs was enhanced to Rs.5.00 Cr. by the Government, communicated vide letter No.13(119)/UD/MB/2013/3277-83 dated 30/07/2014 (copy enclosed - 'A'), No increase in the powers of the Commissioner has been made since 2014.*

3. *Presently, MCD is facing difficulties in executing works beyond the powers of the Commissioner that are costing more than Rs.5.00 Cr. as the Standing Committee is not in place. This results in holding up of many essential and time bound proposals. Proposals for many of the essential works viz. Procurement of uniforms books and stationary for students, engagement of Data Entry Operators, hiring of mails for Horticulture Dept., rate contract for procurement of Standing committee. In case the powers of the Commissioner is enhanced, it can be ensured that urgent and most necessary works are not delayed/ held up for want of approvals. This necessitates enhancing powers of the Commissioner as specified under Section 202(c) of DMC Act so that essential works are not hindered.*

4. *The Government of NCT of Delhi has already enhanced the powers of its Administrative Depts./Secretaries to Rs.50.00 Cr. (Rs. Fifty Crores) in the year 2019.*

5. *In view of the requirement, it is essential to enhance the powers of the Commissioner MCD, at least in parity with that of the Administrative Depts./Secretaries of GNCTD. The following are, therefore, proposed:*

(I) *The powers of the Commissioner, MCD may be enhanced to Rs.50.00 crore (Rs. Fifty crore) to involve an expenditure as provided under Section 202(c) of DMC Act.*

(II) *Every expenditure above Rs.10.00 crore will be made on recommendation of any Advisory Board comprising of :*

- a) *Addl. Commissioner In-Charge of the Department concerned*
- b) *Chief Accountant-cum-Financial Advisor*
- c) *HoD of concerned department*

6. *We may request the Hon'ble Lt. Governor through GNCTD to kindly approve the Para 5 above."*

(emphasis supplied)

19. Mr. Sagar stated that the said proposal has to be placed by GNCTD before the Hon'ble Lieutenant Governor ('LG') for approval and though the Commissioner's issue/request has been pending for last several months, no





response has been received from GNCTD. He stated that the office of the LG has issued letters on 6<sup>th</sup> March, 2024, 12<sup>th</sup> March, 2024 and 15<sup>th</sup> March, 2024, to the Secretary to Minister (Urban Development), GNCTD, calling for the files for enhancement of the financial powers of Commissioner, MCD, however, the LG has been informed that the file is pending in the office of the Hon'ble Minister (Urban Development). He stated that the office of the LG has also followed up thereafter on 28<sup>th</sup> March, 2024 and 2<sup>nd</sup> April, 2024, with the Secretary to Minister (Urban Development) for placing the file before the LG to enable consideration of the request of the Commissioner, however, the file has not been received by the office of the LG.

20. He stated that it is in the aforesaid circumstances that the Commissioner, MCD, has been unable to take steps for procurement of the items to be provided to the students enrolled in MCD schools.

21. Mr. Shadan Farasat, learned standing counsel for GNCTD stated on instructions from Mr. Saurabh Bhardwaj, the Hon'ble Minister (Urban Development), that the impasse created by the non-constitution of the Standing Committee is admitted. He stated that the issue of constitution of the Standing Committee is pending consideration before the Supreme Court in W.P.(C) No. 348/2023, wherein the judgment is reserved. He stated that however, to address the void created by the absence of the Standing Committee, the MCD has adopted Resolution No. 182, dated 15<sup>th</sup> January, 2024, wherein it has been resolved that all functions of Standing Committee shall be carried out by the House until the Standing Committee is duly constituted. He stated that a writ petition being W.P.(C) No. 73/2024 is pending in Supreme Court for putting in practice this Resolution No. 182 by



the Commissioner of MCD. He has placed before us the relevant portion of the translated copy of the text of the minutes dated 15<sup>th</sup> January, 2024, which read as under: -

*“Resolution No. 182 – It was resolved that the following proposal, presented by Shri Ankush Narang and Shri Praveen Kumar and recommended by Shri Pankaj Gupta, regarding vesting the powers of the Standing Committee in the House be approved with immediate effect till the formation of the Standing Committee in Delhi Municipal Corporation-*

*WHEREAS, the Government of National Capital Territory of Delhi has filed Writ Petition (Civil) No. 348 of 2023 in the Hon’ble Supreme Court protesting against the illegal appointment of 10 nominees to the Municipal Corporation of Delhi by the Hon’ble Lieutenant Governor eo nomine.*

*And whereas, the Hon’ble Supreme Court had reserved the decision on the above writ petition on 17-05-2023.*

*And whereas, the nominees are also members of their respective Ward Committees by virtue of Section 50 of the MCD Act and are, therefore, eligible to vote for 12 out of 18 seats in the Standing Committee of the MCD.*

*And whereas, due to the challenge to the validity of the appointment of the nominated persons pending before the Hon’ble Supreme Court, which will directly affect the election on 12 seats out of 18 members of the Standing Committee, and the Standing Committee of the MCD has not yet been constituted.*

*And whereas, under the MCD Act, the Standing Committee is the primary implementing body of the MCD and its approval is required for entering into contracts involving expenditure of more than Rs. 5 crore.*

*And whereas, due to non-formation of Standing Committee, many urgent works of MCD are stalled. This is harmful for the people of Delhi. Due to this, many government works, supply of textbooks in schools and medical supplies in schools and health centers for MCD, public parks, public toilets and other facilities have been affected.*

*Now, therefore, this House resolves that all approvals/sanctions/recommendations for MCD for contracts involving expenditure above Rs. 5 crores, including those which normally require approval from the Standing Committee under the MCD Act, pending the decision of the Hon’ble Supreme Court of India in Writ Petition (Civil) No. 348 of the year 2023 and in pursuance of the decision of the Hon’ble Court, till the Standing Committee is legally constituted in the Municipal Corporation of Delhi, approval will be obtained from the House of the*



***Corporation/MCD by the concerned corporation officers/authorities.***

*The proposal was announced to be passed.”*

(emphasis supplied)

22. He stated that W.P.(C) No.73/2024 seeking implementation of the Resolution No. 182 has been adjourned by the Supreme Court to await the final judgment in W.P.(C) No. 384/2023.

23. He stated that in deference to the direction issued by this Court on 23<sup>rd</sup> April, 2024, the Mayor, MCD, has addressed a letter dated 25<sup>th</sup> April, 2024 to the Minister of Urban Development and stated that the Commissioner, MCD, be directed to place the proposals of procurement of statutory items which require the approval of Standing Committee before the House for expeditious decision on case-to-case basis.

24. He stated that the Minister of Urban Development is in agreement with the said suggestion of the Mayor as it will ensure appropriate democratic control over Commissioner's expenditure, which is above the value of INR Five crores. He stated that the Commissioner, MCD, be directed by this Court to send the proposal, which is beyond INR Five crores to the House and the Mayor will make an endeavour to have it cleared at the earliest. He stated that this procedure may be tested for ten days and the present matter can be taken up thereafter.

25. This Court is of the considered opinion that the aforesaid response of GNCTD is in wilful non-compliance of the order dated 23<sup>rd</sup> April, 2024, directing the appropriate authority of GNCTD to delegate the requisite financial power to the Commissioner, MCD, so as to enable the Commissioner to instantly procure the statutory benefits of free text books, writing material and uniform etc. for the students enrolled in MCD schools.



The submission that the contract for procuring these statutory benefits should await the approval from the House exhibits complete lack of appreciation of the urgency in the matter and shows apathy by both the GNCTD and the Mayor for the well-being of the students and their statutory and fundamental rights.

26. During the hearing on 26<sup>th</sup> April, 2024, this Court expressed its displeasure at this unreasonable stance taken by GNCTD and directed the learned standing counsel to take instructions if the concerned Hon'ble Minister is willing to take immediate steps for delegating the requisite financial power to the Commissioner, MCD so as to enable the said procurement. The hearing was deferred to enable the counsel to take instructions. The learned standing counsel sought instructions from the Minister of Urban Development and stated that even if the process of devolving the requisite enhanced financial power to the Commissioner, MCD, is initiated, it will require the Chief Minister's approval and prayed for an adjournment by two weeks.

27. The inability of GNCTD to act with alacrity and respond to the urgency of the issue at hand, exhibits its indifference towards the plight of the students enrolled in MCD schools and is a wilful violation of the fundamental rights of the said students.

28. This Court is of the view that receipt of free text books, writing material and uniform by school going children is not only a legal right under the RTE Act and RTE Rules but is a part of the Fundamental Right under Article 21A of the Constitution. The relevant provisions in this regard are reproduced hereinbelow:



**Constitution of India**

***“Article 21A – Right to Education***

*The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”*

**Right of Children to Free and Compulsory Education Act, 2009**

**Section 2- Definitions**

...

*“(n) “school” means any recognised school imparting elementary education and includes-*

*(i) a school established, owned or controlled by the appropriate Government or a local authority;.....*

**Section 3 – Right of child to free and compulsory education**

*(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.*

*(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.*

**Section 8 – Duties of appropriate Government**

...

*(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;*

...

**The Delhi Right of Children to Free and Compulsory Education Rules, 2011**

**“Rule 8 – Responsibility of Government and Local Authority**

*(1) A child attending a school of the Government or local authority referred to in sub-clause (i) of clause (n) of section 2, a child attending a school referred to in sub-clause (ii) of clause (n) of section 2 in pursuance of clause (b) of sub-section (1) of section 12 and a child attending a school referred to in sub-clauses (iii) and (iv) of clause (n) of section 2 in pursuance of clause (c) of sub section (1) of section 12 shall be entitled to free text books, writing material and uniform:*

*.....”*

(emphasis supplied)



29. Admittedly, no order has been passed in the Mayor's W.P.(C) No.73/2024 seeking implementation of the Resolution No. 182 and no single proposal worth Rs. Five crores has either been brought before the MCD House or cleared till date. Though, the Standing counsel for GNCTD blames the Commissioner, MCD, yet the Commissioner, MCD's note dated 18<sup>th</sup> September, 2023 and the MCD's Resolution dated 15<sup>th</sup> January, 2024, prove, beyond doubt, that there is a complete lock jam in the decision making process in the MCD.

30. Further, the suggestion mooted by the GNCTD and the Mayor, prima facie, seem unpractical as it virtually amounts to directing that all day to day decisions (instead of policy decisions) shall be taken by Parliament and not by the Cabinet. This Court also takes judicial notice of the fact that the current MCD House has hardly transacted any business in the last one year.

31. If the party in power in GNCTD believed in the solution suggested in the minutes of the meeting dated 15<sup>th</sup> January, 2024, nothing prevented it from moving a suo moto resolution in the MCD House authorizing the Commissioner to make payment for text books, writing material and uniform. Consequently, the submission of learned counsel for the GNCTD blaming other institutions amounts to nothing but 'shedding of crocodile tears'.

32. Moreover, the argument that taking 'Houses consent would ensure democratic control' is a red herring as it is not the case of the respondents that such an expenditure should not be incurred. Their only submission is that the Commissioner, MCD at his own initiative should not award the contracts for free text books, writing material and uniform as it is beyond



Rs. Five crores. Consequently, the real issue is of ‘power’, ‘control’, ‘turf dominance’ and ‘who takes the credit’.

33. There is ring of truth in the statement made by the Hon’ble Minister of Urban Development, Mr. Saurabh Bhardwaj that any increase in financial power of Commissioner, MCD shall require the Chief Minister’s approval. It amounts to an admission that the Delhi Government, due to absence of the Chief Minister is at a standstill.

34. A Chief Minister’s post in any State, leave alone a buzzing capital city like Delhi is not a ceremonial post. It is a post where the office holder (when in office) has to be virtually available 24 x 7 to deal with any crisis or natural disaster like flooding, fire, disease etc. National interest and public interest demands that no person who holds this post is incommunicado or absent for a long stretch of time or for an uncertain period time.

35. To say that no important decision can be taken during a model code of conduct is a misnomer. Undoubtedly, no new policy decision can be taken but holders of Constitutional posts have to everyday take important as well as urgent decisions. For instance, issuance of free text books, writing material and uniform as well as replacement of broken chairs and tables in accordance with the existing policies in the MCD schools is an urgent and immediate decision which brooks no delay and which is not prohibited during the model code of conduct.

36. The decision of the Chief Minister, despite having been arrested, and his petition being dismissed by a learned Single Judge of this Court to continue to hold the position is his personal decision. However, it does not mean that if the Chief Minister is not available, the Fundamental Rights of young children would be trampled upon and they would go through the first



term (1<sup>st</sup> April to 10<sup>th</sup> May) without free text books, writing material and uniform.

37. Consequently, this Court is of the view that non-availability of Chief Minister or non-formation of a Standing Committee or disputes pertaining to appointment of an aldermen by the Hon'ble LG or non-delivery of judgment by a competent Court or non-compliance of certain provisions of Delhi Municipal Corporation Act cannot come in the way of the school-going children receiving their free text books, writing material and uniform forthwith.

38. The Supreme Court in *Kalpna Mehta v. Union of India*<sup>4</sup>, speaking through Mr. Justice Dipak Misra, the then Chief Justice of India, held that the Constitutional Courts have issued directions to the executive and formulated guidelines for facilitation and in furtherance of fundamental rights and sometimes for the actualization and fructification of statutory rights. The relevant para of the same reads as under:

*“39. From the above authorities, it is quite vivid that the concept of constitutional limitation is a facet of the doctrine of separation of powers. At this stage, we may clearly state that there can really be no straitjacket approach in the sphere of separation of powers when issues involve democracy, the essential morality that flows from the Constitution, interest of the citizens in certain spheres like environment, sustenance of social interest, etc. and empowering the populace with the right to information or right to know in matters relating to candidates contesting election. There can be many an example where this Court has issued directions to the executive and also formulated guidelines for facilitation and in furtherance of fundamental rights and sometimes for the actualisation and fructification of statutory rights.”*

39. Consequently, as the students of MCD schools are entitled for free text books, writing material and uniform in accordance with their

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<sup>4</sup> (2018) 7 SCC 1





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constitutional and statutory rights, and the schools are going to close for summer vacations shortly, this Court directs the Commissioner, MCD to incur the expenditure required for fulfilling the said obligations forthwith without being constrained by the expenditure limit of Rs. Five crores. However, the expenditure incurred by the Commissioner, MCD shall be subject to statutory audit.

40. The Commissioner MCD, is directed to file a fresh status report on 14<sup>th</sup> May, 2024. List the matter on 15<sup>th</sup> May, 2024.

**ACTING CHIEF JUSTICE**

**MANMEET PRITAM SINGH ARORA, J**

**APRIL 29, 2024**