



THE INDIAN SCHOOL

E-MAIL/ BY HAND

27th November, 2019

To,

Mr.Sadanand Sah
Deputy Secretary
Legislative Assembly Secretariat
Govt. of NCT of Delhi
Old Secretariat
Delhi - 110054
(Committee on Petitions)

Sir,

Ref: Meeting Notice dated 22.11.2019, received by hand on 26.11.2019 at 02:00 p.m. by 'The Indian School'

That without prejudice to our submissions that the issue is *sub-judice* before Hon'ble High Court in Writ Petition (C) No. 8077 of 2018; Writ Petition (C) No. 13480 of 2018 and Writ Petition (C) No.10660 of 2019 and Appeal nos. 51, 322 & 323 of 2019 before Ld. Appellate Tribunal, MCDand filed by School and same is governed by the provisions of Delhi School Education Act, 1973 and Rules of 1973, Delhi Municipal Corporation Act, 1957, wherein the Hon'ble Lt. Governor, NCT of Delhi, Director of Education are designated authorities to deal with functioning of private unaided schools and Commissioner, SDMC w.r.t. building, the same **does not fall within scope and jurisdiction of Committee on Petitions and is barred by Rule 93(5) and Rule 201(iii)(a)& (b) of Rules of Procedure and Conduct of Business in the Legislative Assembly of the National Capital Territory of Delhi, 1997**, we state as under.

That from the perusal of aforementioned Meeting notice, the objective and purpose of Meeting is not made out. The said notice merely states "*Following the Principal of Natural Justice*

27/11
4:15 PM
THE INDIAN SCHOOL
NEW DELHI

INTERNATIONAL
SCHOOL AWARD
2017-2020

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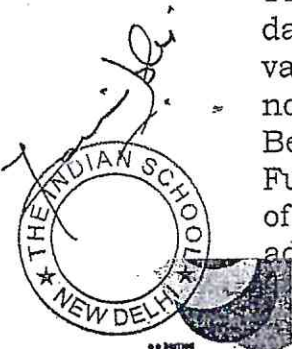


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final opportunity is hereby given to the management Committee of the following Schools to submit their view/comments/version for perusal of the Hon'ble Chairman of the Committee of Petitions. Please also bring related documents/files and copies thereof in support of your defense/contentions."

In this regard, you are well aware that on the basis of undated petition, Committee on Petitions had already conducted an extensive inspection of school on 10.12.2018. The officials of Committee had spent almost 6 hours in the school on the said date and gone through various school records and also inspected the school premises. Thereafter, to our understanding various meetings pertaining to our school have also been held with the officials of Directorate of Education, South Delhi Municipal Corporation, Delhi Fire Services, Revenue Department, etc. and various directions have also been issued to the said Departments to take action against the school. However, we have not been made privy to any of the correspondence with these Departments. We have been left in dark to the findings/views/information gathered by the Committee from these Departments, which are adverse to the interests of the school. The School till date has not been informed by the Committee on Petitions w.r.t. the alleged shortcoming which has come to its knowledge during the course of its inspection dated 10.12.2018, on the basis of the undated complaint, which is the basis of acting against the school.

The present Notice dated 22.11.2019, was preceded by an earlier notice dated 25.10.2019, received on 30.10.2019 at 11:35 am, which was duly replied by the school vide its letter dated 31.10.2019. The school in the said letter has raised various issues inter alia with respect to jurisdiction and also non-compliance of Order dated 19.12.2018, passed by Division Bench of this Hon'ble High Court in W.P.(C) No.13480/18. Further the school has raised therein the issue of non-supply of inspection report (preliminary or otherwise) and the material adverse to the interest of the school and the observations of





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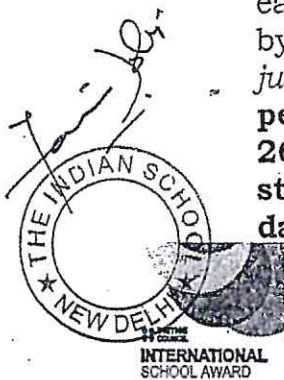
Committee on Petitions on the complaint against the school, so as to enable the school to submit a meaningful and comprehensive response to the allegations made against the school.

It is surprising that despite taking these objections, the present notice, which is almost a verbatim reproduction of the earlier notice has been issued, without even responding to the reply dated 31.10.2019, sent by the school and without dealing with any of the objections raised therein.

Needless to mention the haste with which the Committee is proceeding in the matter is apparent from the fact that the timelines provided by the Hon'ble Court vide its Order dated 19.12.2018 are not being adhered to. We believe the same is on account of the forth coming winter session of the assembly where the committee intends to table its report with a recommendation to take adverse action against the School.

Notice dated 22.11.2019 has yet again failed to conform to the Principles of Natural Justice. Further, the Hon'ble Court had categorically recorded the undertaking of Ld. Sr. Counsel appearing on behalf of GNCTD, that on inspection, the committee would afford atleast give 15 days' time to furnish response. However, the said notice dated 22.11.2019 was received by hand only on 26.11.2019 @ 2.00 pm. asking for attendance of the School management on 28.11.2019, and effectively affords only a working days time to School for providing its view/comments/version, to the allegations and findings still unknown to School.

The department is fully aware that the alleged fee hike and financial irregularities are already the subject matter of an earlier Order of DoE dated 12.07.2018 which has been assailed by School in W.P.(C) No. 8077 of 2018 and the matter is *sub-judice* before Hon'ble High Court of Delhi. **Notice in the writ petition has been issued by Hon'ble High Court on 26.11.2018 and Hon'ble High Court has inter-alia granted stay of directions of refund of fee in the impugned Order dated 12.07.2018.** Govt. of NCT of Delhi has already appeared





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in the matter and is actively participating in the proceedings and the next date of hearing in the said Writ Petition is 12.03.2020.

School from the very beginning has raised jurisdictional issue w.r.t. maintainability of these proceedings before the Committee on Petitions. In this regard, as you know, School has already filed W.P.(C) no. 13480 of 2018 before the Hon'ble High Court. The Hon'ble Court on 19.12.2018 after hearing the matter at length has passed a detailed order, relevant extract of the same is reproduced as under:-

"Mr. Nandrajog further submits that based on the inspection, the Committee would seek comments from the school and grant them reasonable opportunity of at least 15 days to furnish their response and a hearing would be granted before the final report is submitted. He also submits on instructions, that the Committee would not be required to visit the school again neither there would be any necessity for the Principal or the Manager to be present before the Committee, except for a hearing based on its inspection.

...

Binding the respondent to the stand taken in Court, issue notice to the respondents to show cause as to why the petition be not admitted. Counter affidavit be within four weeks and rejoinder there to if any be filed within two weeks thereafter"

This order itself entails a 2 step procedure: first step speaks of comments and response of the school, implicit wherein is the requirement of Committee providing to the school all the relevant material/ information which is adverse to the interest of the school, so as to enable the school to give its comments



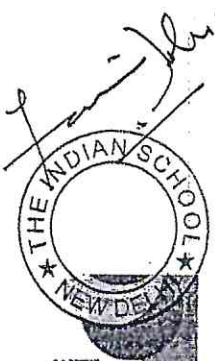


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and response to the same and period of 15 days being provided for the same; and the second step-in the event of Committee not being satisfied with the response of school, hearing deserves to be provided to the school to explain its stand. Vide notice dated 22.11.19, both the above 2 steps have been merged and the timeline provided to the Committee has been breached and furthermore, the material in response to which the school is supposed to provide its comments, has also not been provided to the school. As on date the Committee has not shared any material with the school, as has come to its knowledge, which is adverse to the interest of the school

In the meantime, Directorate of Education on the basis of the same set of allegations which were part of the Order dated 12.07.2018, coupled therewith allegations which are also part of undated petition given by Ms.Suman, Adv. and Ms. Tanu Nair had issued Show Cause Notice dated 16.08.2019, threatening withdrawal of recognition of School. This 3rd SCN dated 16.08.2019 was based on earlier SCN's dated 17.12.2018 and 24.01.2019, all of which emanate from the inspection of Committee on Petitions dated 10.12.2018. This SCN was challenged by the School vide W.P.(C) No. 9654 of 2019. In the said petition, Hon'ble High Court vide its Order dated 11.09.2019, has directed Respondent (GNCTD &Ors.) to *"not give effect to the adjudication in case it is adverse to the interest of the Petitioner till further orders of this Court."*

School has repeatedly asked the Directorate of Education to provide the findings and copy of report (even preliminary) pursuant to the Inspection dated 10.12.2018, however, the same has not been provided till date.



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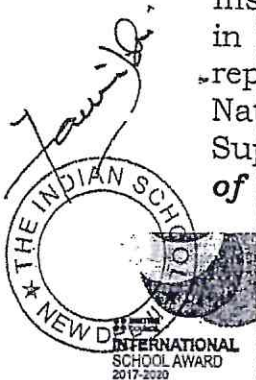
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As per the Order dated 19.12.2018 in WPC No. 13480 of 2018, the:-

- i. a) Committee would seek comments from the school and
b) Grant them reasonable opportunity of atleast 15 days to furnish their response;
- ii. hearing would be granted before the final report is submitted;
- iii. neither there would be any necessity for the Principal or the Manager to be present before the Committee, except for a hearing based on its inspection.

None of the aforementioned requirements are fulfilled by the Meeting Notice dated 22.11.2019 and the earlier notice dated 25.10.2019.

It is reiterated, though the Notice is dated 22.11.2019, the same was **received by hand only on 26.11.2019 at 02:00p.m.** The said notice is irregular on two grounds. Firstly, the said Notice seeks view/comments/version from the School without providing the material/findings/ information, on which the view/comments/version are being sought thereto. In absence of specific alleged irregularities on part of the School, any kind of response, within a days time cannot be merited. Secondly, the Meeting Notice does not grant us atleast 15 days to furnish our response. Necessary prerequisite of submitting any *response* is that School has to be first provided all the material/information/findings which is being read against it, as has come to the notice of Committee pursuant to its Inspection dated 10.12.2018, and during the course of time, in its various meetings held thereafter and interim Inspection report. This requirement is well enshrined in the Principles of Natural Justice and has been well recognized by the Hon'ble Supreme Court in its celebrated judgment in the case of "*State of Orissa v. Dr. Binapani Dei*" AIR, 1967 SC 1269, relevant





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passage from which is being reproduced here under for your perusal:-

"An order by the State to the prejudice of a person in derogation of his vested rights may be made only in accordance with the basic rules of justice and fair play. The deciding authority, it is true, is not in the position of a Judge called upon to decide an action between contesting parties, and strict compliance with the forms of judicial procedure may not be insisted upon. He is however under a duty to give the person against whom an enquiry is held an opportunity to set up his version or defence and an opportunity to correct or to controvert any evidence in the possession of the authority which is sought to be relied upon to his prejudice. For that purpose the person against whom an enquiry is held must be informed of the case he is called upon to meet, and the evidence in support thereof. The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies to judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil consequences. It is one of the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would therefore arise from the very nature of the function intended to be performed; it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case."

Thus, in compliance with the Order dated 19.12.2018 in W.P.(C) No. 13480 of 2018, passed by Division bench of Hon'ble High Court of Delhi and the requirements of principles of natural justice, equity and fair play, we would request that Meeting dated 28.11.2019, qua 'The Indian School' be deferred and it is reiterated that the school be provided with all the materials and documents which are being read against it, as





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has come to the notice of Committee pursuant to its Inspection dated 10.12.2018 and during the course of time and in its various meetings held thereafter and its Inspection report, interim or otherwise, formed on the basis of aforementioned proceedings to enable School to put forth an effective and meaningful response thereto. Further, school be given reasonable opportunity of atleast 15 days to draft and submit its response. If thereafter, Committee is of the view that the same is not sufficient and Committee is not satisfied with the same, hearing in terms of Order dated 19.12.2018 be provided to us.

This is for your kind information and necessary action.

Jain) li
Principal

