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

Judgment Reserved on: 27.02.2026

% ***Judgment Delivered on: 28.02.2026***

\+ **W.P.(C) 122/2026**

ACTION COMMITTEE UNAIDED RECOGNISED PRIVATE SCHOOLS .....Petitioner

Versus

HONBLE LT. GOVERNOR & ANR. .....Respondents

AND

\+ **W.P.(C) 1824/2026**

THE FORUM OF MINORITY SCHOOLS .....Petitioner

Versus

LT GOVERNOR OF DELHI AND ANR .....Respondents

AND

\+ **W.P.(C) 1845/2026**

FORUM FOR PROMOTION OF QUALITY EDUCATION FOR ALL .....Petitioner

Versus

GOVERNMENT OF NCT OF DELHI & ORS. .....Respondents

AND

\+ **W.P.(C) 1908/2026 & CM APPL. 12571/2026**

DELHI PUBLIC SCHOOL SOCIETY .....Petitioner

Versus

GOVT. OF NCT. OF DELHI AND ORS .....Respondents

AND

\+ **W.P.(C) 1910/2026**

ROHINI EDUCATIONAL SOCIETY THROUGH SH. R.N. JINDAL CHAIRMAN OF PETITIONER SOCIETY.....Petitioner

Versus

DIRECTORATE OF EDUCATION GOVT. OF NCT OF DELHI .....Respondent

AND

\+ **W.P.(C) 2012/2026, CM APPL. 11867/2026, CM APPL. 11957/2026 & CM APPL. 11958/2026**

ACTION COMMITTEE UNAIDED RECOGNISED PRIVATE SCHOOLS .....Petitioner

Versus

LT. GOVERNOR & ANR. .....Respondents

AND

\+ **W.P.(C) 2087/2026**

ASSOCIATION OF PUBLIC SCHOOLS .....Petitioner

Versus

GOVT OF NCT OF DELHI AND ANR .....Respondents

AND

\+ **W.P.(C) 2481/2026 & CM APPL. 12057/2026**

RYAN INTERNATIONAL SCHOOL AND ORS.....Petitioners

Versus

LT GOVERNOR OF DELHI AND ANR .....Respondents

COUNSEL FOR THE PETITIONERS

Mr. Akhil Sibal, Senior Advocate with Mr. Kamal Gupta, Ms. Tripti Gupta, Mr. Sparsh Aggarwal, Mr. Siddharth Arora & Ms. Sugandh Shahi, Advocates in W.P.(C) 122/2026.

Mr. Romy Chacko, Senior Advocate with Mr. Sachin Singh Dalal, Mr. Varun Mudgal, Mr. Ashwin Romy, Mr. Akshat Singh & Mr. Joe Sebastian, Advocates in W.P.(C) 1824/2026.

Ms. Geetika Panwar, Ms. Vedanta Varma, Mr. Arjun Garg & Mr. Ishaan Sharma, Advocates in W.P.(C) 1845/2026.

Mr. Puneet Mittal, Senior Advocate with Mr. Rupendra Pratap Singh & Ms. Sakshi Mendiratta, Advocates in W.P.(C) 1908/2026.

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COUNSEL FOR THE RESPONDENTS

Mr. S.V. Raju, ASG with Mr. Zoheb Hossain, Mr. Annam Venkatesh, Mr. Pranav Sarthi, Mr. Samrat Goswami, Mr. Ayush Raj, Mr. Harsh Paul Singh, Mr. Pranjal Tripathi, Mr. Satyam, Mr. Sikhar Yadav, Mr. Chinmay, Ms. Agrimaa Singh, Mr. Aryansh Shukla, Ms. Prachi Dhingra, Mr. Utkarsh Vatsa, Mr. Udit Bajpai, Mr. Shaurya Sarin, Ms. Aditi Andley, Mr. Hitarth Raja, Mr. Sanjeev Menon, Advocates with Mr. Rajpal Singh, Deputy Director of Education, GNCTD and Mr. Rajiv Tawar, OSD, Litigation, DOE, GNCTD.
Mr. Sameer Vashisht & Ms. Khushboo Mittal, Advocates for GNCTD.

Ms. Bhavya Jain, Advocate for the Impleaders in CM No.1257/2026 in W.P.(C) No.1908/2026.

Mr. Khagesh B. Jha, Advocate for Impleader in W.P.(C) 2012/2026.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J
CM No. 8901/2026 in W.P.(C) 122/2026

1. The learned Senior Counsel for the Petitioner submitted that the Petitioner has filed W.P.(C) No.2012/2026 along with CM No.9843/2026 seeking the same relief as prayed in the present Application. Accordingly, the present Application is disposed of having become infructuous.

CM No. 8828/2026 in W.P.(C) 1824/2026
CM No. 8924/2026 in W.P.(C) 1845/2026
CM No. 9273/2026 in W.P.(C) 1908/2026
CM No. 9277/2026 in W.P.(C) 1910/2026
CM No. 9843/2026 in W.P.(C) 2012/2026
CM No.10225/2026 in W.P.(C) 2087/2026
CM No.12056/2026 in W.P.(C) 2481/2026

2. This batch of Petitions has been filed challenging the Notification-cum-order dated 01.02.2026, namely the Delhi School Education (Removal of Difficulties) Order, 2026 ("**Notification**") issued by the Respondents in exercise of the power under Section 21 of the Delhi School Education (Transparency in Fixation and Regulation of Fees) Act, 2025 ("**Act**") to remove difficulties arising in the implementation of the provisions relating to the constitution of the committees under the Act and the Delhi School Education (Transparency in Fixation and Regulation of Fees) Rules, 2025 ("**Rules**") on the ground of the same being arbitrary, unconstitutional and illegal.

3. This common Judgement decides the Applications seeking stay of the operation and implementation of the Notification during the pendency and final disposal of the present batch of Petitions seeking quashing of the Notification.

FACTUAL BACKGROUND

4. The brief factual matrix for filing of the present Petitions is as under:

4.1 The Parliament has enacted Delhi School Education Act, 1973 ("**DSEA, 1973**") dealing with establishment, functioning, governance, and regulation of school education in Delhi, including the fees fixation and regulation by the schools in Delhi.

4.2 With an objective of bringing about transparency in the matter of fixation, regulation, and collection of fee by schools in the National Capital Territory of Delhi and to supplement the provisions of DSEA, 1973, the Act was enacted and upon receiving the assent of the Hon'ble Lieutenant Governor of Delhi, the Act was published in the Delhi Gazette on 14.08.2025. The Act came into force on 10.12.2025, when the Rules were notified under Section 19 of the Act.

4.3 On 24.12.2025, the Director of Education issued the order ("**Order**") operationalising the Act and the Rules for the Academic Session 2025-26 and directing mandatory constitution of School Level Fee Regulation Committee ("**SLFRC**") for compliance with the statutory regime of the Act

and the Rules.

4.4 Being aggrieved by the various provision of the Act, the Rules and the Order, the Petitioners have filed the present Petitions before this Court challenging the same, which are pending.

4.5 This Court, *vide* order dated 08.01.2026 passed in the said Petitions, as an interim measure, provided that any exercise undertaken in terms of the Order shall be subject to further orders, which would be passed in the said Petitions and also extended the time for constitution of SLFRC till 05.02.2026.

4.6 The Petitioners challenged the order dated 08.01.2026 passed by this Court before the Supreme Court on 19.01.2026. During the pendency of the said Petitions before the Supreme Court, the Respondents issued the Notification on 01.02.2026.

4.7 *Vide* order dated 02.02.2026, which was modified by way of order dated 04.02.2026, the Petitions filed by the Petitioners before the Supreme Court were disposed of in view of the Notification issued on 01.02.2026 with clarification that the Act and the Rules shall not be implemented for the Academic Year 2025-26. It was observed that the challenge to the Notification, if any, will be considered by this Court on its own merits.

4.8 Accordingly, the Petitioners have filed the present Petitions challenging the Notification in addition to earlier the Petitions filed challenging the Act, the Rules and the Order.

4.9 *Vide* order dated 09.02.2026 passed in this batch of Petitions, the same have been listed for final hearing on 12.03.2026 along with the other batch of Petitions, which were already listed on the said date.

4.10 As regards the present Applications seeking stay of the operation and implementation of the Notification, the Respondents were given time to file their consolidated response, and the Applications were listed for hearing on 20.02.2026. In the meanwhile, it was provided that those schools, who have not constituted the SLFRC shall not be insisted upon to form the same till the next date of hearing.

4.11 The Directorate of Education ("**DoE**") has filed a common counter affidavit in response to the present Applications seeking stay of the Notification on 16.02.2026 ("**Counter Affidavit**"). The Parties were heard on the issue of granting stay of the operation and implementation of the Notification during the pendency of these Petitions on 20.02.2026, 24.02.2026, 25.02.2026, 26.02.2026 and 27.02.2026, while interim protection granted on 09.02.2026 was continued.

SUBMISSIONS ON BEHALF OF THE PETITIONERS

5. The learned Counsel for the Petitioners have made the following submissions:

5.1 The Notification is in direct conflict and contradiction with the Act and the Rules and also *ultra vires* the Constitution of India,

1950 ("**Constitution**"). The Notification requires the Petitioners to constitute SLFRC for a block of three academic years starting from 2026-27 by 10.02.2026 in accordance with Section 4 of the Act and Rule 4 of the Rules and submit the proposed fee structure by 24.02.2026, however, the same is in direct conflict with Section 4(1)(b) and Section 5(2) of the Act, which provide that the SLFRC shall be constituted not later than 15th July of each academic year and the management of the school shall submit the proposed fee structure for the next block of three academic years by 31st July of the current academic year. Therefore, for Academic Year 2026-27, the SLFRC should have been constituted by 31.07.2025, however, since the Act and the Rules were notified and brought into force on 10.12.2025, no SLFRC was constituted and, hence, no fee proposal could have been submitted for a block of three years commencing with effect from Academic Year 2026-27.

5.2 Clause 3 of the Notification starts with a *non-obstante* clause thereby over-riding the Act and the Rules and making the provisions of the Act and the Rules redundant. The Notification has been issued in terms of the power to remove difficulties as provided under Section 21 of the Act, which specifically provides that such power shall be exercised to do anything not inconsistent with the provisions of the Act, which appears to be necessary or expedient for the purpose of removing the difficulty. Therefore, the *non-obstante* clause in Clause 3 of the

Notification is beyond the power to remove the difficulty as the Notification is inconsistent with the provisions of the Act.

5.3 The Notification has brought the fee charged by the Petitioners for Academic Year 2025-26 within the scope of the Act and the Rules despite the statement made before the Supreme Court that, at present, the Act and the Rules shall not be made applicable to the Academic Year 2025-26.

5.4 The Petitioners are charging the fees that is determined and implemented in accordance with the provisions of the DSEA, 1973, which was in force at the time of commencement of the Academic Year 2025-26. Therefore, there is no reason for subjecting the fee structure of the Academic Year 2025-26 to any examination or scrutiny. Therefore, it is an occupied field and there was no scope for issuing the Notification for regulating the fees for the Academic Year 2025-26.

5.5 The stand taken by the DoE in the Counter Affidavit that the fee needs to be fixed prior to 01.04.2026, before the start of the Academic Year 2026-27, is unworkable given the timeline stipulated under the Act and the Rules for formulation of the SLFRC for fixing of the fees.

5.6 The Act and the Rules are challenged on *inter alia* ground that the requirement of unanimous approval of the proposed fee by SLFRC is unconstitutional. Therefore, unless the challenge to the Act and the Rules is decided, the constitution of SLFRC cannot be insisted upon.

5.7 Even otherwise, the timelines proposed under the Notification cannot be completed before 01.04.2026. When the matter is listed for final hearing on 12.03.2026, no purpose would be served to compel the Petitioners to formulate SLFRC during the pendency of the Petitions.

5.8 The Respondents have accepted that the timelines could not have been on the dates later than those fixed under the Act and the Rules. However, by fixing the dates in the Notification for approval of the fee for the Academic Year 2026-27, the Respondents have acted beyond the provisions of the Act. The Act and the Rules provide that the fee is to be fixed in the previous academic year to ensure that the fee fixation and regulation exercise, including the appeal is concluded and contemplated well in advance of the start of the block of three years. The plain reading of Section 5(2) of the Act provides that the proposed fee for the next block of three academic years shall be submitted by the Management of the School to SLFRC for its approval by 31st July of the current academic year. Similarly, Rule 8 of the Rules stipulates that the Management shall mandatorily submit its proposed fee structure for the upcoming block of three academic years on or before 31st July of the ongoing academic year. Accordingly, the Notification fixing the dates contrary to the scheme of the Act and the Rules is required to the stayed.

5.9 The contention of the Respondents that the Petitioners cannot charge the fees from 01.04.2026 for the Academic Year 2026-27 in absence of determination of the fees in terms of the Act is contrary to the provisions of the Act as Section 3 of the Act provides that the schools shall not charge the fees in excess of the fees fixed or approved under the Act. Therefore, there is no such provision under the Act that prohibits charging of any fees from 01.04.2026 as wrongly submitted by the Respondents.

5.10 The requirement of Section 4(3) of the Act to include at least one member belonging to the Scheduled Castes, Scheduled Tribes or socially or educationally backward classes of citizens in the SLFRC is unworkable within a short period of time as there is no data maintained by the schools with regard to the caste or status of the parents of the students for fulfilling this requirement.

5.11 Rule 4 of the Rules provides that the SLFRC will be constituted by public draw of lots to be conducted within the school premises to select five parent representatives that will require a huge exercise to be undertaken for constitution of the SLFRC in accordance with Rule 4 of the Rules, which is not possible within the short period contemplated under the Notification as many schools are centres for the classes 10th and 12th Board Examinations.

5.12 Further, the preponement of the date of 15th July to 10th February would deprive the parents of the students who would

be taking admission in the Academic Year 2026-27 as they would not be able to participate in the constitution of the SLFRC.

5.13 The SLFRC has duties and functions to scrutinize the fee structure proposed by the school management for the block of three academic years including critically examining fee proposals and audited financials by the parent representatives. In absence of any qualifications prescribed for selecting the parent representatives, it will not be possible to expect them to critically examine the audited financials for raising objections to unjustified components. Furthermore, the audited financials for the Financial Year 2025-26 will not be ready by 01.04.2026, which is prerequisite for determining the fees for Academic Year 2026-27. Hence, the timelines contemplated under the Notification is entirely unworkable and unjustified.

5.14 As per Rule 9 of the Rules, every proposal for fee revision or fixation submitted by the school management to the SLFRC must be accompanied by a set of duly audited financial statements including balance sheets, income and expenditure accounts and cash flow statements for the last three financial years. In absence of the audited financial statements for the Financial Year 2025-26, Rule 9 of the Rules, which is mandatory, cannot be complied with. Further, the schools will not be able to undertake financial planning for the next three academic years in absence of audited financial statements. This

will cause grave prejudice to the Petitioners as the fee fixed shall be applicable for the next three academic years without any proper planning of the payment of staff salaries, infrastructure development and existing contractual commitments resulting in administrative uncertainty and paralysis.

5.15 Although, the Counter Affidavit states that the Notification was formulated to remove the difficulty faced with respect to the timeline for fixing the fees for the block of three academic years starting from Academic Year 2026-27 to prevent profiteering and charging exorbitant fees by the schools, there was no basis for issuing the Notification for removing the difficulties as the provisions of the Notification are amending the provisions of the Act, which is impermissible. The legislations cannot be permitted to be amended by the Executive. The Act having been notified and published on 10.12.2025, the same cannot be permitted to be amended by the Executive through the Notification.

5.16 In ***Madeva Upendra Sinai v. Union of India***, (1975) 3 SCC 765, the Supreme Court has held that the Executive has very limited power to make minor adaptation and peripheral adjustments in the statutes for making its implementation effective, without touching its substance. That is why "removal of difficulty clause", once frowned upon and nicknamed as "Henry VIII Clause" in scornful commemoration of the

absolutist ways in which that English King got "difficulties" in enforcing in autocratic will removed through the instrumentality of a servile Parliament, now finds acceptance as a practical necessity, in several Indian statutes of post-independence era.

5.17 In ***Lachmi Narain & Ors. v. Union of India***, (1976) 2 SCC 953, the Supreme Court has held as under:

> *"70.Taking into consideration all these matters, the legislature has, in its judgment solemnly incorporated in the statute, fixed the period of the requisite notice as "not less than three months" and willed this obligation to be absolute. The span of notice was thus the essence of the legislative mandate. The necessity of notice and the span of notice both are integral to the scheme of the provision. The sub-section cannot therefore be split up into essential and non-essential components, the whole of it being mandatory. The rule in Raza Buland Sugar Co. case [AIR 1965 SC 895] has therefore no application.*
>
> *71. Thus Section 6(2) embodies a determination of legislative policy and its formulation as an absolute rule of conduct which could be diluted, changed or amended only by the legislature in the exercise of its essential legislative function which could not, as held in Re Delhi Laws Act [AIR 1965 SC 895] and Rajnarain Singh case be delegated to the Government.*
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> *72. For these reasons we are of opinion that the learned Single Judge of the High Court was right in holding that the impugned notification was outside the authority of the Central Government as a delegate under Section 2 of the Laws Act."*

5.18 In ***State of West Bengal v. Anindya Sundar Das***, (2022) 16 SCC 318, the Supreme Court has held that:

> *"56.The State Government chose the incorrect path under*

Section 60 by misusing the "removal of difficulty clause" to usurp the power of the Chancellor to make the appointment. A Government cannot misuse the "removal of difficulty clause" to remove all obstacles in its path which arise due to statutory restrictions. Allowing such actions would be antithetical to the rule of law. Misusing the limited power granted to make minor adaptations and peripheral adjustments in a statute for making its implementation effective, to sidestep the provisions of the statute altogether would defeat the purpose of the legislation.

57. Accordingly, the High Court in our view was justified in coming to the conclusion that "in the guise of removing the difficulties, the State cannot change the scheme and essential provisions of the Act."

5.19 In view of the above decisions, the Notification being inconsistent with the provisions of the Act, deserves to be quashed as in the guise of removal of the difficulty by way of the Notification, the Respondents have changed the entire scheme of the Act by changing the mandatory timelines.

5.20 There is no presumption under any law for the time being in force that the private schools are commercialising and profiteering. The fees fixed by the Schools under DSEA, 1973 cannot be called unapproved fees as National Education Policy is not the first document mandating curbing of commercialization and profiteering, which are even otherwise prohibited in law. In case the operation and implementation of the Notification is not stayed, the Petitioners will suffer irreparable harm as the SLFRC will proceed to fix the fee for a block of three academic years, in a complete takeover of school's autonomy in fee fixation and in plain derogation of the

scheme and timelines under the Act.

5.21 In any event, the timelines fixed by the Notification are illusory and can no longer be achieved by 01.04.2026 before the commencement of the Academic Year 2026-27. If the stay is not granted and the fee approval process under the Act is implemented, it will cause grave prejudice as if the Petitions are decided in favour of the Petitioners, resulting in higher fixation of fees for Academic Year 2026-27, the parents would have to bear the burden of sudden increase including the arrears. On the other hand, if the stay is granted and if the challenge to the Act and the Rules is rejected, the parents would receive refund of any fee collected in excess of the approved fees.

5.22 In view of the above, this the fit case for grant of stay during the pendency of the present Petition as the Petitioners have strong prima facie case on merits and the balance of convenience is also in favour of the Petitioners. In case, the stay as prayed for is not granted, the Petitioner will suffer grave prejudice and irreparable loss.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

6. Mr. S.V. Raju, the learned Solicitor General has made the following submissions:

6.1 The Act has been enacted with the objective to curb commercialization and profiteering in education in accordance with the National Education Policy, 2020 of the Government of India. The Act and the Rules lay out a clear and detailed

scheme and structure through which fee is determined, which further prevents exploitation of the students on account of excessive school fees being charged.

6.2 The dates provided under the Act are not sacrosanct as second proviso to Section 5 of the Act provides the flexibility for changing the dates. By providing the revised timelines in the Notification, the basic structure as well as pith and substance of the Act has not been modified. The dates are only means to achieving the objective of the Act that is provided in the preamble of the Act which provides as under:

> *"An Act to bring about transparency in the matter of fixation, regulation and collection of fee by schools in the National Capital Territory of Delhi and matters connected therewith and incidental thereto and to supplement the provisions of the Delhi School Education Act, 1973."*

6.3 The difficulty which is sought to be removed by way of Notification pertains to Section 3 of the Act which provides as under:

> *"3.* ***Prohibition of collection of excess fee***
>
> *No school by itself or through any other means on its behalf shall collect any fee in excess of the fee fixed or approved under this Act."*

6.4 In view of the above provision, the Schools will not be able to collect any fee in excess of the fee fixed or approved under the Act. Accordingly, the Schools will not be able to charge any fees with effect from 01.04.2026. Therefore, the Notification is in fact in favour of the Schools as unless they violate Section 3

of the Act, they will not be able to collect any fee for the Academic Year 2026-27.

6.5 In ***Re: Kerala Education Bill 1957***, AIR 1958 SC 956, the Supreme Court has held that the policy and purpose of a given statute may be deduced from the long title and preamble thereof.

6.6 In ***Maharao Sahib Shri Bhim Singhji v. Union of India***, (1981) 1 SCC 166, the Supreme Court has held that the preamble to the Act ought to resolve interpretational doubts arising out of the defective drafting in the provisions of the Act.

6.7 The Act has been enacted pursuant to the State's obligations under the Directive Principles contained in Articles 39(b), 39(c), 41, 45, and 46 of the Constitution. To the extent the Act is traceable to Articles 39(b) and 39(c) of the Constitution, it is immune from any challenge on account of violating a Fundamental Right, in view of Article 31C of the Constitution.

6.8 In the case of ***Mohd. Hanif Quareshi v. State of Bihar***, AIR 1958 SC 731, the Constitution Bench of the Hon'ble Supreme Court has held that the Courts must presume that the legislature understands the needs of its people. Similarly, in ***Hamdard Dawakhana v. Union of India***, AIR 1960 SC 554, the Hon'ble Supreme Court has reiterated the principle that presumption is always in favour of constitutionality of an enactment.

6.9 Therefore, fixing dates for compliance of actions provided for under the Act cannot be said to be inconsistent with the Act as the outer timelines / dates provided for in the Act are not part or basic feature of the substance of the Act.

6.10 The Petitioner cannot raise any contention with respect to violation of the right to free trade and commerce under Article 19(1)(g) of the Constitution at this stage as the Act has neither been struck down nor stayed and so, the Court has to proceed on the basis of the Act being fully in force and operational. Hence, the said contention of the Petitioner is not sustainable.

6.11 In the case of ***Indian School, Jodhpur & Anr. v. State of Rajasthan***, (2021) 10 SCC 517, the Hon'ble Supreme Court has decided that the autonomy of the school to fix the fees is not absolute and the regulation of fees is not violative of Article 19(1)(g) of the Constitution.

6.12 The intention of the Act was to regulate the fees from the Academic Year 2025-26 onwards, which is evident from Section 5(4) of the Act. Further, Section 3 of the Act provides that no school shall collect any fees in excess of the fees fixed or approved under this Act, which has come into force with effect from 10.12.2025.

6.13 Therefore, to prevent an anomaly that unapproved fee is not charged from 01.04.2026, the Act in second proviso to Section 5 of the Act provides a deeming fiction that the fee charged by the schools as on 01.04.2025 shall be the proposed fee for the

purpose of approval / fixation in terms of Section 5 of the Act for the Academic Year 2025-26. Therefore, the Notification prevents the levy and collection of unapproved fee from 01.04.2026 and fixes a timeline for constitution of the SLFRC to enable collection of only approved fees in terms of Section 3 of the Act and to prevent any hardship to any students on account of rampant commercialization and profiteering by the schools, which is the stated object of the Act.

6.14 As almost two thirds of the year was over and on the suggestion of the Supreme Court, it was thought fit to keep the regulation of the fee for the Academic Year 2025-26 pending subject to the outcome of the Petitions and the Notification was passed to ensure that approved / regulated fees is collected with effect from 01.04.2026 for the Academic Year 2026-27 onwards in consonance with the object, letter and spirit of the Act.

6.15 If the Act is not permitted to be implemented, it will have an impact of defeating the object of the Act. Therefore, the fee has to be approved / fixed as per the provisions of the Act by 01.04.2026. In case the Act would have been made applicable to Academic Year 2025-26, there would have been no need for passing of the Notification for removing the difficulties as once such the fees would have been fixed in the beginning of the Academic Year 2026-27, the schools would not be in a position to levy exploitative fee until the fee for Academic Year 2026-27 is fixed / approved under the Act. In absence of process of

fixing / approval of the fees under the Act, which is contemplated by the beginning of the academic year, the Schools cannot levy any fee in excess of the fee fixed / approved under the Act as per Section 3 of the Act. Hence, the process of fixing / approval of the fee under the Act has to be completed by 01.04.2026.

6.16 Section 4(1)(b) of the Act requires the constitution of the SLFRC 'not later than 15th July'. There is no violence to the language to the Act as the earlier timelines fixed by the Notification is in consonance of the provisions of the Act, which provide expression 'by' and 'not later than' 15th July. The expression 'by 31st July of the current year' in Section 5(2) of the Act cannot be read to mean 'not prior to 31st July' or 'only on 31st July'. It is well settled that the expression 'up to' or 'by' permits the execution of such an action at any date prior thereto. There is no statutory embargo in fixing timelines for the purpose of the SLFRC prior to the date provided in the Act.

6.17 The argument that if the SLFRC is constituted prior to 01.04.2026, the parents of students, who will join after 01.04.2026 will be excluded from the SLFRC is completely misconceived and contrary to the scheme of the Act as the SLFRC is to fix fee for 'next block of three years' in terms of Section 5(4) of the Act and, therefore, the parents of the students for the second and third academic year shall always be excluded from participating in the constitution of the SLFRC.

6.18 It is permissible for the removal of difficulties Notification to slightly tinker with the Act to round of irregularities and smoothen the joints or remove minor obscurities to make it workable so long as it does not change, disfigure or do violence to the basic structure and primary features of the Act.

6.19 In ***Madeva Upendra Sinai*** (*supra*) it has been held as under:

> *"39. To keep pace with the rapidly increasing responsibilities of a welfare democratic State, the Legislature has to turn out a plethora of hurried legislation, the volume of which is often matched with its complexity. Under conditions of extreme pressure, with heavy demands on the time of the Legislature and the endurance and skill of the draftsman, it is well nigh impossible to foresee all the circumstances to deal with which a statute is enacted or to anticipate all the difficulties that might arise in its working due to peculiar local conditions or even a local law. This is particularly true when Parliament undertakes legislation which gives a new dimension to socio-economic activities of the State or extends the existing Indian laws to new territories or areas freshly merged in the Union of India. In order to obviate the necessity of approaching the Legislature for removal of every difficulty, howsoever trivial, encountered in the enforcement of a statute, by going through the time-consuming amendatory process, the Legislature sometimes thinks it expedient to invest the Executive with a very limited power to make minor adaptations and peripheral adjustments in the statute, for making its implementation effective, without touching its substance. That is why the "removal of difficulty clause", once frowned upon and nick-named as "Henry VIII clause" in scornful commemoration of the absolutist ways in which that English King got the "difficulties" in enforcing his autocratic will removed through the instrumentality of a servile Parliament, now finds acceptance as a practical necessity, in several Indian statutes of post-independence era.*"

6.20 In ***Union of India v. Gautam Khaitan***, (2019) 10 SCC 108, wherein it has been held that:

> "*19.It could therefore be seen, that the scheme of the Black Money Act is to provide stringent measures for curbing the menace of black money. Various offences have been defined and stringent punishments have also been provided. However, the scheme of the Black Money Act also provided one time opportunity to make a declaration in respect of any undisclosed asset located outside India and acquired from income chargeable to tax under the Income Tax Act. Section 59 of the Black Money Act provided that such a declaration was to be made on or after the date of commencement of the Black Money Act, but on or before a date notified by the Central Government in the Official Gazette. The date so notified for making a declaration is 30-9-2015 whereas, the date for payment of tax and penalty was notified to be 31-12-2015. As such, an anomalous situation was arising if the date under sub-section (3) of Section 1 of the Black Money Act was to be retained as 1-4-2016, then the period for making a declaration would have been lapsed by 30-9-2015 and the date for payment of tax and penalty would have also been lapsed by 31-12-2015. However, in view of the date originally prescribed by sub-section (3) of Section 1 of the Black Money Act, such a declaration could have been made only after 1-4-2016. Therefore, in order to give the benefit to the assessee(s) and to remove the anomalies the date 1-7-2015 has been substituted in sub-section (3) of Section 1 of the Black Money Act, in place of 1-4-2016. This is done, so as to enable the assessee desiring to take benefit of Section 59 of the Black Money Act. By doing so, the assessees, who desired to take the benefit of one time opportunity, could have made declaration prior to 30-9-2015 and paid the tax and penalty prior to 31-12-2015.*"

6.21 In ***Ramakant S. Bhattad & Ors. v. State of Maharashtra & Ors.***, 2015 SCC OnLine Bom 1647, the High Court of Bombay has held that minor adaptation and peripheral adjustments were permissible for making the implementation of the statute

effective without touching its substance.

6.22 In view of the above, power of removal of difficulties can be exercised even to tinker with the Act to round of angularities and smoothen the joints to make it workable.

6.23 The operation of the Notification during the pendency of the present Petitions would not cause any irreparable injury or loss to the Petitioners as irrespective of when the fees for Academic Year 2026-27 is fixed / approved the schools would eventually be entitled to collect and retain only the fees fixed / approved under the Act. Even if the schools collect an unregulated fee in the beginning of an academic year, they will have to refund / adjust any excess fee collected. Hence, there is no net financial implication on the school because of the Notification. Therefore, there is no irreparable loss or injury if the Notification is not stayed. On the contrary, if the excessive unregulated fees are charged by certain schools, it would cause great financial hardship and irreparable loss to the students, who may not be able to study in school on account of such unregulated excessive fees being charged from 01.04.2026.

6.24 Accordingly, the balance of convenience lies in favour of permitting the operation of the Notification during the pendency of the Petitions.

6.25 The argument of the Petitioners that they are unable to comply with the timelines as stipulated under the Notification is not correct as under Section 17(3) of DSEA, 1973 in any case the

Schools have to file a full statement of the fees before the commencement of each academic session before the DoE. Accordingly, no prejudice would be caused to the Schools if the fees is fixed as per the timelines stipulated under the Notification.

6.26 Therefore, the operation of the Notification during the pendency of the present Petitions would not cause any irreparable injury or loss to the Petitioners. Irrespective of when the fee for Academic Year 2026-27 is fixed / approved, the Schools would eventually be entitled to collect and retain only the fees / approved under the Act.

6.27 The contention of the Petitioners that they do not have the requisite data with regard to the castes and background of the students is incorrect as the admission form of the Schools clearly provides for category (SC/ST/OBC/General) and therefore, each school has the requisite information for complying with the requirement of Section 4(3) of the Act which requires the SLFRC to include at least one member belonging to Scheduled Caste, Scheduled Tribes or socially and economically backward classes.

6.28 The net financial implications of the Notification on the Schools are nil and no irreparable loss and injury would be caused to the Schools if the same is permitted to operation during the pendency of the present Petitions. On the contrary, if the Notification is stayed, the Schools could than claim that the same permits them to collect a fee as per their discretion which

is often found to be excessive and unreasonable causing grave harm to the students. Hence, the balance of convenience would lie in favour of permitting the operation of the Notification during the pendency of the present Petitions.

6.29 In ***Colgate Palmolive (India) Ltd. v. Hindustan Liver Limited***, (1999) 7 SCC 1, the Supreme Court has held that the considerations which weigh with the Court hearing the applications / petitions for grant of injunctions includes whether the grant of or refusal of injunction will adversely affect the interest of general public which can or cannot be compensated otherwise. Further, in ***Mahadeo Savlaram Shelke & Ors. v. Pune Municipal Corporation & Anr.***, (1995) 3 SCC 33, it has been held that the public interest is one of the material and relevant considerations in either exercising or refusing to grant injunction.

6.30 Hence, the Application seeking stay be dismissed.

SUBMISSIONS ON BEHALF OF THE IMPLEADERS

7. Mr. Khagesh Jha, the learned Counsel on behalf of the Impleader, Naya Samaj Parents Association has made the following submissions:

7.1 The parents are the most vulnerable class in the transition phase of the Act where the admit card and results of children are being withheld, which was not permissible even under the old regime and DoE is not taking any action stating that they will act under new Act, which has been deferred by their own.

7.2 The provision of Section 14(1)(a) of the Act has been skipped by not providing the formation of the Parents Teacher

Association, which deprives the parents from filing appeal under Section 7 of the Act. The Respondents are confused with the transition phase and the interplay between the old regime and the Act. Accordingly, this Court may clarify the position that the protections available under the DSEA, 1973 shall remain available to the students.

7.3 No prejudice shall be caused to the Petitioners in case the SLFRC is constituted as the affected party is only the students. Accordingly, no stay of the Notification should be granted.

ANALYSIS & FINDINGS

8. We have carefully considered the submissions made on behalf of the Petitioners as well as the Respondents. The Petitioners have filed the present batch of Petitions challenging the Notification in addition to the Petitions already filed challenging the provisions of the Act, the Rules and the Order. All the Petitions are tagged with each other and kept for final hearing on 12.03.2026. The only issue, which is required to be determined is as to whether during the pendency of the Petitions, the Notification, which has prescribed timelines for constitution of the SLFRC be implemented.

9. The Petitioners have contended that the timelines contemplated in the Notification is unworkable since the Schools are not in a position to constitute the SLFRC within the timelines as provided under the Notification as there is no sufficient time provided to comply with the provisions of the Act and the Rules. The Petitioners have challenged the Act on the ground that the requirement of all the members of the SLFRC to be present to constitute quorum as well as for having unanimous decision at the

SLFRC is unworkable and unconstitutional as it will result in taking away the legitimate right of the schools to determine the fees and permitting the Respondents to fix the fees for all the Schools as there is no possibility to have unanimous decision in the SLFRC between the members having conflicting interest.

10. Further, the requirement to have at least one member from the Scheduled Castes, Scheduled Tribes or socially or educationally backward classes of citizens is also unworkable as the schools do not have the requisite data to identify parents belonging to such categories and the time prescribed for identifying such parents is not sufficient.

11. In addition, Rule 9 of the Rules provides that the school management has to provide audited financial statements for their three previous financial years for fixing the fee of the next three academic years. The timelines proposed by the Notification do not permit the audited financial statements for the Financial Year 2025-26 to be available for consideration of the SLFRC as the same would not be ready prior to 01.04.2026.

12. Further, the Petitioners have contended that the Notification has amended the provisions of the Act by changing the timelines for fixing the fees for the next block of three academic years as there is no possibility of fixing the fees during the academic year for the same academic year.

13. The Petitioners have contended that the fixation of fees is an occupied filed under the DSEA, 1973 and, therefore, there is no need for urgency or haste to implement the Act for the Academic Session 2026-27 by accelerating the timelines by way of the Notification as the fees are already regulated under the provisions of the DSEA, 1973.

14. On the other hand, the learned Solicitor General for the Respondents has submitted that the power to remove difficulties under Section 21 of the Act permits the Respondents to issue the Notification. The difficulty that the Notification seeks to remove is that as per Section 3 of the Act, the Schools cannot collect the fees in excess of the fee fixed or approved under the Act. It is the contention of the Respondents that Schools are charging excessive and exorbitant fees and, therefore, there is an urgent need to fix the fees prior to 01.04.2026 before the Academic Year 2026-27 commences. Accordingly, the Notification has proposed the revised timelines as one-time measure for fixing fees for the block of three academic years starting from 2026-27 in terms of Clause 3(2) of the Notification. As per the revised timelines, the SLFRC was to be constituted by 11.02.2026 as per Section 4(1)(b) of the Act and the submission of the proposal was to be completed by 25.02.2026 as per Section 5(2) of the Act. Thereafter, the approval of the fee was to be completed by 27.03.2026 as per Section 5(4) of the Act.

15. We have, *vide* order dated 09.02.2026, observed that as an interim measure the Schools who have not constituted the SLFRC shall not be insisted upon to form the same till the next date of hearing, which continues till the passing of this order.

16. *Prima facie*, it appears to us that the timelines as contemplated under the Notification are unworkable as, if the SLFRC is constituted as per the Notification, it will not be possible to complete the process of approval of fee by 27.03.2026 in view of the time taken for hearing these Applications. In any event, the timelines provide that the SLFRC constituted for each of the Schools shall approve the fee proposed by the management by

unanimous agreement of its members as per Section 5(4) of the Act.

17. The present Petitions have *inter alia* challenged Section 5(4) of the Act on the ground that the requirement of unanimous agreement of the members of the SLFRC is unconstitutional. In case the SLFRC is not able to arrive at a unanimous agreement, the School Management has to refer the matter to the District Fee Appellate Committee constituted under Section 6 of the Act for decision by the District Fee Appellate Committee within a period of 15 days as per Section 5(7) of the Act.

18. However, the revised timeline for reference to the District Fee Appellate Committee is not contemplated under the Notification. As per the original timeline prescribed under the Act, the last date for referring the matter of fee fixation / approval is prescribed as 30th September of the previous academic year prior to the block of three academic years for which the fee is to be fixed / approved. As there is no stipulation of the revised timeline for reference and determination of the fees by District Fee Appellate Committee in case of failure to arrive at a unanimous agreement for approval of the proposed fee by the SLFRC in the Notification, it would not be practicable to conclude the process of fixation / approval of the fees in terms of the Act before 01.04.2026, which the stated intent and purpose behind the issuance of the Notification.

19. Further, Section 5(7) of the Act provides that "…. *During the pendency of the reference before the District Fee Appellate Committee, the Management shall collect the fee of the previous academic year.*" Accordingly, the Act contemplates collection of fees by the Schools during the pendency of reference before the District Fee Appellate Committee.

20. It is premature to presume that the SLFRC constituted by each of the Schools shall be able to approve the proposed fee unanimously. In case any of the SLFRC is unable to approve the proposed fee unanimously, the next step is to refer the matter to District Fee Appellate Committee. However, the Notification does not provide for the revised timeline for reference to the District Fee Appellate Committee. At the same time, the Act permits the Schools to collect the fee of the previous academic year during the pendency of the reference before the District Fee Appellate Committee.

21. Accordingly, Section 3 of the Act is not a blanket prohibition for collection of any fee. At best, Section 3 of the Act prohibits the collection of excess fee once the fee is fixed or approved under the Act. Until the fee is fixed / approved under the Act or is in process of getting fixed or approved, the Schools are entitled to collect the fee of the previous academic year as clearly stipulated under Section 5(7) of the Act.

22. Therefore, we are of *prima facie* opinion that there is no difficulty that is required to be removed under Section 3 of the Act since there is no complete ban for collection of the fees, but the prohibition is only limited to collection of excess fee once the fee is fixed / approved under the Act. The timelines contemplated under the Notification do not contemplate the entire process of fixation / approval to be completed prior to 01.04.2026. As the fee is unlikely to be fixed for each of the Schools prior to 01.04.2026 and the Act provides that the Schools can collect the fee of the previous academic year until the fee is fixed / approved under the provisions of the Act, no prejudice would be caused if the Notification is put in abeyance till such time the substantive challenge against the Act, the Rules, the order and the

Notification is decided by this Court.

23. Since the substantive challenge to the provisions of the Act, the Rules, the Order, and the Notification as the same is subject matter of the main Petitions, we would refrain from making any observations with regard to the merits of the scope of the said challenge. Suffice is to state that having heard the Parties, we are of the opinion that challenge to the Act and the Rules requires careful consideration during the final hearing of these Petitions commencing on 12.03.2026.

24. Further, considering the practical difficulty of non-availability of audited financial statements prior to 01.04.2026, need to hold the physical meeting of the parents for selection at the premises of the school where the final examinations are ongoing during this month, show that the balance of convenience is in favour of the Petitioner.

25. As regards the argument of the Petitioners that the Notification is seeking to fix the fee for the Academic Year 2026-27 in the same year, the same cannot be accepted as the Academic Year 2026-27 shall start from 01.04.2026 and the Notification contemplates fixing fees prior to the start of academic year. Therefore, it would be considered as previous Academic Year, i.e., 2025-26.

26. The contention of the Petitioners that the parents of the students, who would be admitted after 01.04.2026, would not be able to participate, is also not tenable as the Act contemplates fixing fee for block of three academic years and accordingly, the parents of the students, who get admitted in the second and third academic years out of the block of three years would, in any case, not get an opportunity to participate in the constitution of the

SLFRC.

27. However, no irreparable loss will be caused to the students if the Notification is stayed as any fees levied during the pendency of these Petitions will be subject to outcome of these Petitions as the Schools will be liable to refund / adjust the fees in case the same is charged in excess of the fees that is ultimately fixed / approved in terms of the Act. Accordingly, the purpose and object of the Act shall be achieved as in case any excess fees than the fees fixed / approved as per the provisions of the Act and the Rules is charged, the same shall be liable to be refunded / adjusted during the course of the academic year. Therefore, no prejudice will be caused if fixation / approval of the fees is deferred during the pendency of these Petitions since it will not cause any loss to the students.

28. In view of the above, it would be expedient to defer the constitution of the SLFRC during the pendency of the Petitions, which are scheduled to be heard finally on 12.03.2026. Accordingly, it is directed that during the pendency of the present Petitions, the operation and implementation of Clause 3(1) and (2) of the Notification shall remain in abeyance and the Petitioners shall be entitled to collect the same fees for the Academic Year 2026-27 as was collected for the previous academic year till the fee is fixed / approved in terms of the provisions of the Act and the Rules, subject to outcome of these Petitions as provided in Clause 3(6) of the Notification, which reads as under:

> *"3. **Removal of difficulties in constitution of Committees for a block of three (3) academic years commencing from 2026-27.***
>
> *** *** ***
>
> *(6) Any exorbitant fee charged by schools for the academic year*

2025-26 shall be regulated and dealt with in accordance with law subject to the final outcome of the proceedings challenging the vires of the Act and the Rules presently pending before the Hon'ble High Court of Delhi and the Hon'ble Supreme Court of India."

29. The present Applications stand disposed of with the aforesaid directions.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 28, 2026
'sms'/gsr