

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.3864 OF 2009**

Lovely Bal Shiksha Parishad

....Appellant(s)

VERSUS

Delhi Development Authority
& Anr.

...Respondent(s)

WITH

CIVIL APPEAL No.8701 OF 2009

M.C.D.

....Appellant(s)

VERSUS

Lovely Bal Shiksha Parishad
& Anr.

...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1) These appeals are filed against the common final judgment and order dated 11.06.2004 passed by the High Court of Delhi in W. A. No. 85 of 2004

and W. A. No. 532 of 2004 respectively whereby the Division Bench of the High Court disposed of the appeals filed by the Lovely Bal Shiksha Parishad and M.C.D., appellants in both the appeals with some directions in modification of the directions given by the Single Judge vide order dated 14.11.2003 in C.W.P. No.8272 of 2002.

Brief facts:

2) The dispute in this case is between the appellant-a registered Society named-Lovely Bal Shiksha Parishad, Delhi (Appellant in C.A. No.3864/2009 and respondent in C.A. No.8701/2009) and M.C.D., respondent No. 2 in C.A. No.3864/2009 and appellant in C.A. No. 8701/2009) and Delhi Development Authority (DDA) (respondent No.1 in C.A. No.3864/2009). It is in relation to the land situated at Mayur Vihar Phase-II, New Delhi.

3) In the year 1989, the DDA had allotted the land in question to the MCD for establishing a primary School. Subsequently, the allotment was cancelled and then the DDA allotted 2.47 acres (approx.) of land in the same vicinity to the Lovely Bal Shiksha Parishad (hereinafter referred to as “the Society”) for establishing a Middle School.

4) Later in 1998, the DDA withdrew the original allotment made in favour of the Society and allotted 1.29 acres to the Society in the same vicinity. However, in the year 2002, the DDA allotted 1.40 acres to MCD, which was a part of the land originally allotted to the Society in the year 1998.

5) Since the lands allotted to the Society and the MCD is in the same area and being contiguous to each other, the Society felt aggrieved of the decision of DDA by which the DDA had allotted reduced area as compared to what was originally allotted to the

Society and filed a writ petition (C.W.P. No.8277/2002) against the DDA and MCD, seeking quashing of the said decision before the High Court. It was contested by DDA and MCD.

6) By order dated 14.11.2003, the Single Judge disposed of the writ petition and issued mandamus in the form of certain directions to the DDA in relation to allotted lands to the Society and MCD for their compliance. Felt aggrieved by the said order, the Society filed writ appeal (85/2004) and the M.C.D. also filed writ appeal (532/2004).

7) By common judgment/order dated 11.06.2004, the Division Bench disposed of the appeals with some directions in modification of the directions issued by the Single Judge.

8) Dissatisfied with the directions issued by the Division Bench of the High Court, the Society and

the M.C.D. filed separate appeals by way of special leave before this Court.

9) This Court on 03.08.2007 passed the following order:

“Call after four weeks. In the meantime, Chief Secretary, MCD, D.D.A. and M.C.D. shall explore the possibility of finding solution the problems involved in the present case. This exercise shall be taken because of the recurring nature of such problems.”

10) Pursuant to the aforesaid order, the matter was examined by the Chief Secretary of the Government of NCT of Delhi after calling all the stakeholders with a view to explore the possibility as to whether any amicable solution can be arrived at between the parties and, if so, on what terms. On inspecting the site, hearing all the stakeholders' views and examining the entire issue, the Chief Secretary was of the view that the parties are not prepared to settle amicably. He then submitted the

detailed report to this Court (Pages 99 to 103 of the SLP paper book).

11) The Chief Secretary, in his report, has concluded in Paras 12 and 13 as under:

“12. In short, I found that there was no room for any compromise. In view of the circumstances, it is my recommendation to the Hon’ble Supreme Court through this Report that it may be possible to resolve the issue by maintaining the present areas held by the two contending parties for the following reasons:

- (a) The two areas are roughly equal in size as pointed out earlier;**
- (b) Under the MPD 2021, which is prevalent now, for a Primary School the requirement of land need not be more than 0.4 hectares (1 acre).**

13. This was the position even under the Master Plan 1981-2001 during the currency of which the DDA had made various allotments at variance from the prescriptions therein. I believe that both schools would be viable if the present area of 1.354 acres with Lovely Bal Shiksha Parisahd and 1.345 acres with MCD is maintained.”

12) With the aforesaid background of the case, the question arises as to what orders need to be passed for the disposal of these appeals.

13) Having heard the learned counsel for the parties and on perusal of the record of the case, we are of the considered opinion that the report submitted by the Chief Secretary, set out above, deserves to be accepted including his recommendations contained in Paras 12 and 13 quoted above.

14) This we say for the reasons that firstly, no objections were raised by any of the parties to the appeals to the report; secondly, in submissions also, the report was not assailed by the learned counsel on any grounds; thirdly, we, on perusal of the report, also do not find any kind of illegality or irrationality in the recommendations given by the Chief Secretary; and lastly, it has come in the report that the building is also built on the allotted land.

15) In our view, on acceptance of the recommendations of the Chief Secretary, both the

parties-appellants in both the appeals (Society and MCD) would be able to carry out their activities for the benefit of public at large and we do hope that both will continue to do so in letter and spirit because that is the object for which lands have been allotted to them.

16) In view of foregoing discussion, we do not consider it necessary to deal with any legal submissions on merits. Indeed, even the learned counsel appearing for the parties did not address us on the merits of the case.

17) In the light of foregoing reasons, the appeals are disposed of in terms of the recommendations contained in Paras 12 and 13 of the report of the Chief Secretary quoted above.

18) Let the consequential orders of allotment or/and its confirmation, as the case may be, should be passed by the DDA in relation to respective

allotment of lands to the parties concerned as per their allotment policy and keeping in view the recommendations.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi,
September 07, 2017