

(1997) 02 DEL CK 0037

In the Delhi High Court

Case No : Civil Writ Appeal No. 2572 of 1996

Central Academy Senior Secondary School

APPELLANT

Vs

Lt. Governor

RESPONDENT

Date of Decision : 14-02-1997

Acts Referred:

Delhi School Education Act, 1973 — Section 20(1)

Citation : (1997) 2 AD 325 : AIR 1997 Delhi 307 : (1997) 66 DLT 25 : (1997) 41 DRJ 65

Hon'ble Judges : Manmohan Sarin, J;M. Jagannadha Rao, J

Bench : Division Bench

Advocate : Madan Bhatia, R.M. Sinha, A. Ahlawat and G.L. Rawal, for the Appellant;

Judgement

M. Jagannadha Rao, J.

(1) The Central Academy Senior Secondary School, R.K. Puram, represented by its Manager, Mr. S.N. Chaturvodi, has Filed this writ petition for quashing the order dated 3.7.96 passed by the Lt. Governor, N.C.T., Delhi u/s 20(1) of the Delhi Education Act taking over the management of the School for two years and directing Mr. B.D. Bahuguna (Reld. Deputy Director of Education) as the authorised officer who should manager the school on behalf of the Director of Education. The order contains a preamble briefly staling the circumstances" leading to the take over. The reasons for taking over are contained in an annexure appended to the order.

(2) Before we set out the facts, we may refer to a few subsequent events. On 24.7.96, this court passed an order, as an interim arrangement, by consent of parties, appointing a Managing Committee consisting of Dr. T.P.S. Chauhan (Dy. Director of Education),. Mr. B.D. Bahuguna, Reld. Dy Director of Education, Mr. S.N. Chaturvedi, Ms. Sunita Chaturvedi. This Court appointed Sri Inderjit Sharma, retired Joint Registrar of this court as Chairman of the Management Committee. Periodically, reports have been Filed by Mr. Inderjit Sharma and this

Court has been giving directions to Mr. Chaturvedi. Directions had to be issued by this Court regarding appointment of teachers, admission of students, payment of salaries etc.

(3) It is stated in the preamble to the impugned order that a show cause notice dated 30.8.95 was issued and reply was given on 14.9.95 and was duly considered by the Lt. Governor and that on a consideration of the relevant record, correspondence and other material placed in the File, the Lt. Governor was satisfied that the managing committee of the school had neglected to perform the duties and responsibilities imposed on it by and under the Delhi Education Act and Rules and that the Lt. Governor is of the opinion that it is expedient in the interests of the School education to take over the management for 2 years.

(4) In the annexure appended to the impugned order which contains the reasons, it is stated that the management has failed to run the school in the best interests of education of children and the conditions prevailing in the school need immediate intervention. A list of deficiencies and discrepancies found in the functioning of the school is set out:

"(A) There is no properly constituted managing committee as required in pursuance of provision of rule 59 to shoulder the responsibilities and duties so imposed in pursuance of rules 181 to 185 of Delhi Education Rules, 1973 and as a result the school is not being run in the best interest of education of children and for better organisation and development of school education in Delhi. The managing committee has failed to allow school to function normally and has caused a situation by which "the normal & smooth functioning of the school has been hampered. The managing committee has failed to comply with provision of Delhi School Education Act & Rules, 1973 particularly with regard to the condition of recognition of the school. It has also failed to provide reasonable facilities for the inspection of the school and also for the inspection of account books, registers and other documents. The affairs of the school are being conducted in such a way which adversely affected the interest of school. (b) The managing committee has failed to submit any assurance for the improvement in school building, library, laboratory, playground, toilets and other structure which is found in dilapidated condition.- (c) There is also infighting between the members of the managing committee and the affairs of the school are being conducted for personal gains by Sh. S.N. Chaturvedi and Sh. S. Chaturvedi and Sh. Surjit Singh etc. (d) The managing committee has failed to deal with the service condition of the employees in accordance with relevant rules. The services of various employees have been dispensed with, without following the due procedure and in violation of the provisions of section 8 of the Act read with Rules 118 to 120 of the Rules. (e) There is no assurance for improvement in the enrollment of students which has decreased drastically and the senior secondary classes have been closed without prior permission of the department. And as such, the allegation so made in the show cause notice NO. SW-119/95/170 dt. 30.8.95 for

the default of various provisions of" Delhi School Education Act, 1093 and the Rules made there under stand proved."

(5) In the writ petition, Mr. Chaturvedi has stated that a show cause notice was issued on 30.8.95 in regard to take over, that a reply was filed by Mr. Chaturvedi on 14.9.95 stating that for 2-3 years, the school has been sustaining huge losses that the number of students from 1st to 10th standards had come down from 130 to 95 and in the 11th and 12th standards from 37 to nil; that by letter dated 10.6.96, petitioner had stated that the monthly losses were around Rs. 54 thousand, and that it was Therefore incumbent on the authorities to show how they would meet the Financial problems inasmuch as, according to petitioner, Section 6(5) debarred the Government from providing any aid to the school. It was contended that the rejection of the reply of the petitioner by the Li. Governor was arbitrary inasmuch no formula for providing financial assistance to the school was referred to in the show cause notice. It is stated that Dr. S. N. Chaturvedi had brought the school into existence right from purchasing the property to construction the building etc. and he is also a "life trustee" of the school. It is alleged that the impugned; order is mala fide and has been inspired by Sri R. D. Misra, Sri Uday Sharma, Sri O.P. Bhal of the School who, according to petitioner, were for collecting tuition-fee beside other charges and that orders were passed by this court on 4.1.95 and 18.1.96 in Suit No. 2928/94 restraining the dismissed teachers from entering the school or collecting fee.

(6) Fao (OS) 68/96 against the same is pending. It is said that the Managing Committee had by letter dated 25.11.95 dismissed these teachers on the recommendation of the disciplinary committee. It stated that u/s 6(5) the Government cannot give aid to the school and there is no point in taking over a school which is running in losses. The order is arbitrary and violative of Article 14 of the Constitution of India. The order is also violative of natural justice for no personal hearing was given inspire of the letter dated 10.6.96.

(7) In the counter-affidavit Filed on behalf of the 1st respondent Li. Governor, Nct Government, it is stated that the writ petition is liable to be dismissed as the petitioner did not avail of the alternative remedy of appeal u/s 20(4) of the Act. It is also stated that, on a complaint made by some teachers, a Committee of 8 officers conducted an inspection on 26.10.94 after giving notice of 1 month and 10 days. The Committee was headed by two Deputy Directors of Education and they conducted inspection in the presence of Mr. Ashok Chaturvedi, son of S.N. Chaturvedi (so-called Manager), Mr. Surjit Singh (Joint Secretary Children's Education Trust). The principal was not present. The report was sent to the Manager of the School for compliance. The report reveals that showed that the affairs of the school were totally mismanaged. A compliance report was submitted to the Manager on 17.1.95 which, according to the 1st respondent was an eye-wash. It was not a compliance report. Thereafter, another inspection was conducted on 20.2.95. The school authorities did not provide any documents for inspection. The so-called principal had no records with her. She stated there was

no library. The Bank refused to make payment of salaries to 11 teachers on the ground that there are contradictory instructions issued by the managing Committee. Number of other irregularities were pointed out in the second report. On 7.4.95 the Deputy Director of Education issued directions to the Manager of the school u/s 24(3) of the Act and required compliance. Mr. S.N. Chaturvedi submitted a reply on 22.4.95 claiming to be the Manager of the School. The non-cooperation of the school authorities in complying with the points raised in the inspection report and the directions issued u/s 20(4) indicated, according to the respondent I, that the school management was not interested in running the school. The management did not also make available the necessary records to the inspection team but adopted an attitude of defiance. As such a show cause notice was issued on 24.8.95 A reply was given by Mr. S.N. Chaturvedi. In the reply it nowhere stated that the constitution of the Managing Committee, its working, appointment of teachers as per Rules, non- Filing of returns under Rule 108, the deteriorating conditions of the library and the laboratories, suspension of teachers without complying with the provisions of Act and the Rules and no record was made available to the inspection Committee.

(8) As the management claimed compliance with the objections and directions, another inspection was made for. verifying the facts, notice of inspection was given that inspection will be conducted on 10.11.95 and, at petitioner's request, changed to 17.11.1995. This inspection was conducted to verify the contents of the reply to the show cause notice. A Final report was prepared on 22.11.95. This inspection revealed that although the initial scheme of the Management was approved by the competent authority, the constitution of the managing committee was not according to the scheme, no records were made available in regard to proper constitution of the Managing Committee over 3 years. Time was given on 17.11.95 till 21.11,95 for furnishing documents. No documents were submitted till 6 P.M. on 21.11.95. The respondent came to the conclusion that the school was not in a position to shoulder the responsibility and duties envisaged in Rule 181 to 185 of the rules. The school is located in prime area and the respondent had suspicion that probably the management wants to close the school and use the land for other purposes, other than the purpose for which the land was allotted. It was also noticed that the management had abolished 11th and 12th classes, without prior approval of the Directorate of Education and the number of students was being systematically reduced. The reply also says that in the previous year, the management did not deliberately take new admissions in Class Xi, as a result class Xi was closed and only those students who were promoted from class Xi to Class Xii was there in Class XII. So far as Class X students were concerned, they were given transfer certificate even though no parent wanted to withdraw students for class XI. In fact, deliberate attempt was made to sec that recognition was withdrawn so that the land allotted which was prime land could be used for commercial activity. It was stated "once the school is taken over by the Administration, the Administration will make its arrangements to meet the Financial requirements to run the school.

There is no violation of natural justice as repeated opportunities were given.

(10) On the basis of the above pleadings, the points for consideration in this writ petition are :

1. Whether the impugned order dated 3.7.96, passed by the Lt. Governor, taking over the management of the school for 2 years u/s 20 (1) of the Delhi Education Act is illegal or viola live of principles of natural justice?

2. Whether having regard to the facts of the case, the events before the impugned order and the events which took place, during the pendency of the writ petition, this is a Fit case for interference under Article 226 of the Constitution of India?

(11) POINT: High Court Is Not A Court Of Aiteal At the outset, it has to be stated that, this Court is mainly concerned with the legality of the order and whether there was any violation of principles of natural justice, Under Article 226, this court is surely not silting in appeal against the impugned order taking over the management of the school. A Division Bench of this Court laid down in Perfect Public Secondary School and Others Vs. The Administrator of National Capital Territory of Delhi (Lt. Governor of Delhi) and Others, that, where action taken u/s 20 of the Act is challenged in writ jurisdiction, this court does not sit in appeal and all that the court has to sec is whether the order has been passed by the Administrator after giving a reasonable opportunity of showing cause against the proposed action and whether material was in existence for taking action u/s 20 of the Act. It was held that personal hearing is not a sine qua non of rules of natural justice. In the same judgment the challenge to the validity of Section 20 was also sustained. It was also held that action u/s 20 can be taken even if the school had not been inspected u/s 24 of the Act. Information can reach the Administrator from any source. Of course, as a fact, there was inspection done by a team of officers in that case and it was found that (i) the management had defrauded the teachers by paying less salary to them (ii) services of some teachers terminated in contravention of Rule 105 and Section 8(2). (iii) there was no properly constituted managing committee in term of Rule 59 (i) (b) and .that the school was not being run in accordance with the Act and the Rules and that the managing committee failed in its duty by not allowing the school to function normally, thus adversely affecting the interests of the students, (iv) the school was closed for certain days contravening Rule 32 of the rules (v) the report of the Deputy Education Officer showed there was in discipline among the students which was not being controlled etc., (vi) the managing committee was interfering in the day to day administration of the school contrary to Rule 59(m) and that no records was produced at the time of inspection even though required under Rule 59 (vii) and Rule 184 of the Rules. On those facts the High Court refused to interfere with the order of take over u/s 20(1) of the Act. In State of Up Vs. Committee of Management of S.K..M. Inter College, 1995 Suppl. 2 Scc 535 the Supreme Court has also held that the High Court while dealing with issues of taking over of an educational institution under the provisions of the U.P.

Intermediate Education Act, 1921 does not act as a Court of appeal. Where the fact Constituting the grounds enumerated in Section 16-D(3) existed in the record and the Government after applying its mind to those facts was satisfied that Section D(3)(v) and (vi) had been contravened by the Committee of Management, the Government was right in exercising the power. The High Court, it was held, had committed a manifest error in traversing the controversy acting as a Court of Appeal and interfering with such an order. It was also held that an order appointing an authorised officer need not be elaborate one as is passed by a Court of Law but it should indicate application of mind to relevant facts.

(12) In that case, the audit reports contained facts, the Director issued show cause on the facts and after receiving reply gave a report with reasons to the Government which directed the take over. The section 16(3) required the Director to give reasons in his report and also produced that Government has to record reasons, while directing take over for a period (which is to be less than 5 years). The Director's notice referred to seven charges based on audit reports and the Explanation was found to be not satisfactory. Report was submitted to Government, which on consideration of the facts emerging from the record, directed taking over. While dealing with the said case, the Supreme Court observed:

"It is settled law that the administrative authorities are not required to record reasons as elaborately as an order by a Court. What is required is application of mind to the relevant facts placed before the administrative authority: short reasons that weighed with them to take action need to be recorded. It is seen that the order at hand is an elaborate one and from the record, it is seen that the Director has culled out material facts that emerged from the record."

(14) The Supreme Court also stated regarding the scope of Article 226 in such matters as follows:

"It is settled law that the High Court exercising the power under Article 226 of the Constitution is not like an appellate authority to consider the dispute. It has to see whether the impugned order is based on records or whether the authorities have applied their mind to the relevant facts."

(15) The Supreme Court held :

"THEREFORE when the facts exist on record and the Government have applied their mind to those facts and came to the conclusion that from the facts collected they were satisfied that the Committee had contravened clauses (v) and (vi) of sub-section (3) of Section 16-D, they have rightly exercised the power..... We are of the view that the High Court has traversed the controversy as a Court of appeal and committed manifest error of law in interfering with the order."

(16) The order of the High Court quashing the order of taking over of the School was therefore set aside by the Supreme Court. Bearing the above principles in mind, we shall consider the matter. The facts of the case before us "provide a

similar parallel. Two Inspections and notices given before the show cause notice : Long before the show cause notice by the Director of Education/Spl. Secretary (by order and in the name of the Governor) on 30.08.95, there were two inspections, First one on 26.10.94 and the other on 20.2.95. After the First inspection, report of the Inspecting Officer dated 27.10.94 revealed that (1) the school has sufficient land for play Fields but no Field was properly maintained and no sport activities were being taken up (ii) Budget has not been made, stock and issue registers were not made available, purchases are not made as per norms of the department, school has not been participating in Zonal activities for 3 years (iii) school is not using services of trained PET. On 26.10.94, certain documents were called for and on 1.11.94, the Academy gave certain documents to the team. On 8.11.94, report was given to the Library, stating that there is no furniture in the library for use of students and there is no "accession" register maintained in the library. The entries in some books were made on loose papers, no catalogue is maintained. There is report dated 10.11.1994, that no laboratory (Physics, Chemistry, Biology) has any store for equipment, there is no stock register, equipment is inadequate, no proper electric Fittings, no proper black boards in classes, maintenance of all Labs. is poor. There is only one Lab. assistant; there is no ventilation, only 12 students can work at a time, no water arrangement on tables, microscopes are substandard. In Geography Lab, there is nothing in the room. On 14.12.94, the Team recorded that the following documents were asked for and not supplied:

(i) Balance sheet for 3 years. (ii) Photocopy of FDRs. (iii) Total Collection of fee for 3 years. (iv) enhancement of fee and % (v) enhancement of fee year-wise as per Govt. order (vi) Security Deposit Statements. (vii) Certificate of payment of LIC/Bonus, Medical/Maternity leave etc.

(16) There is then a very elaborate report dated 22.12.94 of the some inspection-team, conducted in the presence of the officers of the school. It runs into 5 pages. It is recorded that according to the teachers, salaries are paid on flat basis ignoring Govt. norms, increments or D.A. The school did not produce evidence to the contrary. Mr. S.N. Chaturvedi is shown as Principal, born in 1934, superannuation on 31.1.94 but still continuing as Principal on extension, his daughter Ms. Sunita Chaturvedi is shown as Vice Principal appointed only on 1.7.88 but in her service book shown as PGT. Ashok Chaturvedi, son of Mr. S. N. Chaturvedi is shown as Manager, has also signed as Principal and Vice-Principal. Overaged staff are working, appointment letters are not found issued, no confirmations, no leave account maintained, service books are incomplete, containing over-writings and cuttings without due attestations. It is found four staff members left in 92-93. Some teachers complained they were working as teachers but their names are not shown in staff attendance register. Km. Anita Sharma stated "she was getting pay Rs. 1,000.00 p.m. from July, 1992 and is not paid by crossed cheque. Mrs. Rajiv Thareja working as Pgt is shown as primary teacher. Annual return under Rule 180 has not been submitted for several years. There is no record of fee account. Science equipment was

inadequate and poor. Many admissions in Class Xi were irregular. Eligibility criteria was not followed as detailed. Cbse report lists out shortcomings in classroom, library, labs, play ground, instance training and recruitment of teachers. The Cbse recommended action against the school. 3 teachers were suspended w.e.f. 1.12.94. It is also slated :

"AT present, school is running head-less as Sh. S.N. Chaturvedi, Principal, is not attending and as so called Vp (Vice Principal) (Sunita Chaturvedi) D/O Mr. S.N. Chaturvedi is also not attending school. The Executive Trustee Mr. H. N. Chaturvedi has appointed Vidya Rani, teacher in charge. However Vidya Rani has also given her denial to work as teacher in charge and the next senior most teacher Mr. Mishra has been suspended, by the so called management Along with two others."

"THE academic, financial and administrative problems have changed to the work."

"RECENTLY, staff has complained about not being paid salary for the month of November, 1994."

(17) A detailed complaint regarding the constitution of the Managing Committee was also recorded. There are the reports of the 1st inspection dated 26.10.94. Copies of reports were given and the school gave a reply regarding compliance on 12.1.95. The second inspection.

(18) On 20.2.95, there was a second inspection to verify the compliance report. Inspire of prior notice, none was present for the management side. Only so called Acting Principal Mrs. Thomas was present. The school -authorities provided no documents for inspection. Mrs. Thomas stated that she had no school record with her. The compliance report could not be verified. Further points raised in the fresh inspection were:

(I) Suspension of 3 teachers was not approved by the Director. Orders were sent to the school for revocation but suspension order were not revoked. The management moved the High Court.

(II) Teachers reported that salary cheques for January were returned with the remark that instruction from old and new management differ.

(III) A new Head of school was appointed without concurrence of department. This was contrary to Rule 96 but the incumbent was continuing. All the teachers were complaining against her behavior.

(IV) Day to day functioning of school is affected due to non- cooperation and lack of coordination between old Principal, new management and school staff and so called new head of school.

A summary of the two inspection & notice :

THE Deputy Director of Education then wrote an elaborate letter dated 7.4.95 mentioning the result of special inspection held on 26.10.94 and 12.1.95 and

stated that there was gross violation of rules as two points (i) to (xiii) referred to therein and directed the school to remove the defects and furnish compliance report in 15 days failing which action would be taken. Petitioner's reply: A reply dated 22.4.95 was submitted by the school. It contains general denials and an accusation that the inspections are being carried out at the instance of some suspended teachers and that the department is instigating the teachers with a view to usurp the management of the school. It is said that Mr. S.N. Chaturvedi resigned as Principal and his 73 daughter Ms. Sunita Chaturvedi is appointed as Principal as she is most eligible, competent, suitable" and reliable. The acts of the teachers and the other suspended teachers has resulted in a situation that there are only 100 students in Standard I to Xii, and no new admissions are recorded. Fee was being collected by suspended teachers. School has filed suit against teachers and department as Suit No. 2928/94. Teachers have gone on strike, dharna etc. School regrets the refusal of suspension of teachers. Directions to lift suspension "cannot be complied" since the matter is subjudice in High Court.

THE reply to the Government states: "For all improper functioning, your department is responsible....." Present show cause notice and petitioner's reply: It is at that stage that a detailed show cause notice for taking over was issued by the Deputy Director on 30.08.95 running into 10 pages, setting out (i) to (xiii) points and the school sent a reply on 14.9.95 alleging it had sent compliance report to the inspection, which is almost a repetition of the reply dated 22.4.95 already referred to, given in connection with the letter dated 7.4.95. The management however stated they were ready to comply with the requirements of the department. They admitted request for down gradation of Senior Secondary classes on 23.7.95. A supplementary reply was sent on 10.6.96. Fresh inspection to verify facts in the reply to show cause and result thereof After receiving the above replies dated 14.9.95 and 10.5.96 to the show cause notice dated 30.8.95, the Department could have passed an order u/s 20(1) in regard, to taking over. But, with a view to avoid any controversy, they conducted a further inspection (the Iii inspection, now to verify the replies to show cause) on 17.11.95 and a final report was submitted on 22.11.95.

IT is important to note that this inspection for verifying the replies to show cause notice was done in the presence of Mr. S.N. Chaturvedi, Manager, Smt. Sunita Chaturvedi, so called Principal, daughter of Mr. S.N. Chaturvedi, Mr. Ashok Chaturvedi, son of Mr. S.N. Chaturvedi described as Administrative Officer. Eight senior officers of the Department were present. In regard to points (i) to (xiii) raised in the show cause notice, factual finding are given Seriatim :(i) though scheme of management was approved by the competent authority, the constitution was not as per the scheme. No records were made available in regard to proper constitution of Managing Committee for previous 3 years. Thus school is not in a position to shoulder responsibilities and duties as per Rules 181 to 185. (ii) It was found that no record of elections of the Managing Committee held and maintenance of minutes of the Committee were made available for 3

years. (iii) recruitment rules were not followed. Service book are not maintained properly. Some were over aged. No government nominee was present at selection of Ms. Sunita Chaturvedi as Principal. School did not seek approval of registration of her father Mr. S.N. Chaturvedi who was Principal. Mr Ashok Chaturvedi is shown as Tgt but is serving as Administrative Officer. (iv) School did not submit any document under Rule 180 for 3 years, regarding fee and other charges. Prospectus was merely changed in ink. No documents were submitted showing utilisation of funds for development. (v) library facilities remained inadequate. (vi) School play grounds are poorly maintained. There is violation of Rule 51 (i) to (v). School has only one Pet, and his eligibility could not be verified for want of records. (vii) School authorities suspended 3 teachers without prior approval of competent authority. School filed Cwp 2926/94 and also suit for injunction and damages. (School does not any absence of approval). (viii) Lack of discipline which cannot conducive to orderly behavior among students was revealed. (ix) No facilities made available as required by Section 24(2) as several records were not given by the school during inspection. (x) the payment of Bonus, Da, allowances was examined by the Fao and he has given his report. (xi) It is to be stated that "Sh. S.N. Chaturvedi, his son Sri Ashok Chaturvedi, daughter Sunita Chaturvedi and brother, Sh. H.N. Chaturvedi are found to be holding different capacities in the school viz. Chairman/Principal/Manager/Teacher etc. at different points of time, which is indicative of the fact that the school is being run for personal gain and that infighting to grab the control of affairs of the school for Financial benefits has made the conditions inservicable." (xiii) School is not being managed in accordance with scheme of management. In addition, it was found that the enrollment of student has drastically gone down and new admissions are being deliberately avoided as reflected in the inspection reports. It was pointed out that on 22.11.95, the date of the report, certain fresh documents were given by the school authorities, but as they were never given earlier during the previous inspections on 26.10.94 and 20.2.95, they did not lend any credibility. They were however forwarded to the Deputy Director. This is the Iii report but is one made for verification of the reply to the show cause notice, as staled earlier. The inspection reports regarding the two inspections dated 26.10.94, 20.2.95 prior to the issuance of the show cause dated 30.8.95, the reply dated 14.9.95 and 10.6.96, and the final verification report dated 22.11.95 in regard to verification on 17.11.95 into the facts in the reply, were all summoned by the Deputy Director concerned and put up to the Lt. Governor. It was stated on 28.11.95 in the note that, on account of the above, it was a Fit case for taking over. At one stage on 29.11.95, suggestion was made that instead of taking over, school may be derecognised.

(17) The final order based on the facts as found in the last verification-inspection : We now come to the final order of taking over of the school which is dated 3.7.96. The order is signed by the Special Secretary in the name and by orders of the Lt. Governor. The reasons for taking over are mentioned in the Annexure. The order says the Lt. Governor was satisfied that the school be taken

over for the reasons specified in the annexure. The Annexure says that :

"THE following documents correspondence have been placed before the Lt. Governor..... The show cause notice..... the reply received the other relevant records, documents and related correspondence pertaining to the statutory defaults committed by the managing committee."

(18) In our view, the above statement is a clear indication that the Lt. Governor perused the inspection reports pursuant to inspection dated 26.10.94 and 20.2.95 which we have referred to in detail. He also perused the show cause notice, the reply and the supplemental reply and the further verification reports dated 22.11.95 in regard to the inspection dated 17.11.95 for the purpose of verifying the facts stated in the reply to the show cause.

(19) Then the impugned order say that:

"AFTER having examined the aforementioned documents, correspondence, records and other facts, the-Lt. Governor of National Capital Territory of Delhi is satisfied that the Managing Committee of the-School has failed to run the school in the best interests of education of children and conditions prevailing in the school needs immediate intervention. And Therefore, it is expedient in the interest of school education to take over the management of the school due to the following deficiencies and discrepancies found in the functioning of the school."

(20) We have already set out the deficiencies and discrepancies stated in the order, in our extract, at the beginning of the judgment. We need not repeat the same. Paras (a) to (c) of the order have to be read in conjunction with the final verification report of the Deputy Director dated 22.11.95 which found the reply of the School dated 14.9.95 and the reply dated 10.6.96 as not being correct in respect of points (1) to (xiii) mentioned in the show cause notice.

(21) Contentions of petitioner cannot be accepted. Learned counsel for the petitioner is Therefore not correct in submitting that there is violation of principles of natural justice. In fact, there has been exhaustive or rather an overemphasis on the part of the department in complying with principles of natural justice. There were two inspections on 26.10.94, 20.2.95 and as deficiencies were not rectified inspire of notice after each inspection, show cause notice was given on 30.8.95, two replies dated 14.9.95 and 10.6.95 were received. Instead of stopping there, the facts in the reply were verified by a personal inspection on 17.11.95 in the presence of Mr. Chaturvedi and others. 8 Senior Officers of the department were present. On personal verification, the deficiencies and state of affairs were summarised in the Final report dated 22.11.95 which has been accepted by the Lt. Governor.

(22) Further, there is no merit in the submission that the points raised in the show cause notice dated 30.8.95 and the conclusions (a) to (e) in the final order dated 3.7.96 are at variance. The final order, of the Lt. Governor is passed in

acceptance of the facts as verified by the Deputy Director and others in the final report dated 22.11.95 in points (i) to (xiii) set out in the show cause notice. We have set out these Findings in the report dated 22.11.95 in full details. The points (a) to (e) made by the Lt. Governor are based upon these verified facts and hence there is no merit in the submission that the grounds (a) to (e) in the final order are not found in the show cause notice. Nor is there any basis for the contention that the show cause notice and order were passed at the instance of the teachers against whom the petitioner has taken action or was mala fide. The argument is totally untenable and is of no merit whatsoever.

(23) We do not accept the contention of the petitioner's counsel that there was undue delay in the passing of the orders. There is no undue delay and whatever delay there was became necessary for carrying out the three inspections of the school so as to conform to principles of natural justice or meet the points raised by the petitioner. No is there any merit in the contention that old issues were dug out.

(24) It is argued that when the petitioner was requesting for permission to closing, instead of accepting the same, the authorities decided to issue show cause notice for take over. In our view, the petitioner does not have an absolute right to close down the school. It is for the authorities to consider whether having regard to the locality where the school is functioning and the needs of the residents of the area and having regard to the plight of the students and teachers to decide whether the management could be permitted to close down the school and it could be managed better and brought to normalcy and further improved. A point was raised that in the minutes, the signature of a person is found who was not an officer at the relevant time. On this issue, there is no pleading and further petitioner, after perusing the record of the department, was trying to raise all new issues from time to time. It was then contended that the ground that Mr. Chaturvedi was trying to close down the school for personal gain for selling the land is not based on any material. We are of the view that this was an inference drawn from the overall facts, correspondence and it cannot be said that the inference is unwarranted. If there was no good reason for the attempt at closure of the school or for creating circumstances to close down certain classes or reduce admissions, a suspicion legitimately arises as to the motives of the petitioner. In any event, even if one reason is incorrect, the order is based on various other relevant grounds and is not vitiated. It was argued that the Lt. Governor has to see the existing composition of the governing body and not how it was or whether it was defective. This is an argument on the sufficiency of the material. Then the argument of school autonomy is raised. It is true certain amount of autonomy is necessary but this is subject to regulations by the State. Reliance is placed on the decision in *The Delhi Ex-Serviceman Cooperative Multi-purpose Transport Society Ltd. Vs. The Delhi State Transport Authority, Delhi and others* 1971 (2) Delhi 642 but we are of the view that the same is not applicable for the reasons already given.

(25) We may also notice an intervention application, bearing No. Cm No. 6500/96 filed by the Children Education Trust through its Executive Trustee, Dr. H.N. Chaturvedi. Dr. H.N. Chaturvedi happens to be the brother of Shri S.N. Chaturvedi of the Central Academy Senior Secondary School, the petitioner herein. It is claimed in the intervention application that the trust is running 12 schools throughout the country and had established the petitioner Academy in Delhi. Mr. S.N. Chaturvedi had been appointed the Principal of the petitioner Academy by the Trust. Allegations are made in the application regarding mismanagement of the Academy and misappropriation and embezzlement of funds by S.N. Chaturvedi and others. It is claimed that Mr. S.N. Chaturvedi retired in January, 1995 and handed over charge and the Trust had appointed a new Principal. It is further alleged that Mr. S.N. Chaturvedi, Along with Mr. K.C. Gautam, illegally changed the Managing Committee of the School and dislodged the Principal despite having retired as Principal and having ceased to be a Trustee of the Children Education Trust. The intervenor- applicant states that they have made representations to the Director of Education and had also instituted legal proceedings for restraining Shri S.N. Chaturvedi, Shri K.C. Gautam and others from interfering in the Management of the School. The applicant Trust has also offered to invest substantial sums for improving the Academy, raising further construction and acquisition of furniture, equipment, etc. The allegations in the application have been denied in the reply filed on behalf of the petitioner.

(26) In view of the orders that we propose to pass in the writ petition, no orders are necessary in the intervention application. Nevertheless, we have noticed these facts since this is yet another pointer of the prevalent conflict between the trustees, wherein accusations of misappropriation and embezzlement. of funds are being made which have a bearing on the question of mismanagement of the petitioner Academy.

(27) As already stated, we are not sitting in appeal against the orders of the Lt. Governor. We are satisfied that the principles of natural justice were meticulously followed and that the Lt. Governor applied his mind to the facts as contained in the show cause notice, the reply , the correspondence, the inspection reports etc. and arrived at the right conclusion that this school be taken over by the Government for 2 years u/s 20 (1) of the Act. Learned Counsel took up grounds (a) to (c) in the final order and tried to challenge there correctness. In our view, it is not permissible for the petitioner to question the correctness of the findings of the fact arrived at by the authorities. There was abundant material before the authorities on the basis of which the said conclusions were arrived at.

(28) It cannot be said that there was any non-application of mind on the part of the Lt. Governor and that he merely adopted the views of the officers. There is no merit in the contention that the Li. Governor did not apply his mind independently. There is also no undue delay in the issue of the show cause notice. No question of personal hearing before the Lt. Governor arises as that is

not required, as stated by the Division Bench in the case of Preet Public Secondary School 1 1995 Delhi Lt 482 .

(29) It is to be noted that in the Up case decided by the Supreme Court 1995 Suppl. 2 Scc 535 the show cause given by the Director of Education was based upon audit reports and the facts found by the Director on the basis of the reply to the show cause, and the reasons given by the Director in his recommendation for taking over were accepted by the Government and when the High Court went into the facts and reversed the Findings, the Supreme Court set aside the judgment of the High Court. It is not permissible for this Court Therefore to set aside the Findings arrived at by the authorities.

(30) A new point has been raised in the writ petition that in view of sub clauses (5) of Section 6, no aid can be granted by Governor for school which is taken over u/s 20. At the moment, this question docs not arise and it will be for the authorised officer who takes over the management to run it by use of existing funds or from fee or from other donations (sec reply affidavit). Section 20(6)(c) requires all school funds to be placed at the disposal of the authorised officer. Point I is held against the petitioner.

(31) Point 2 In any event, alternatively, we do not think it is a Fit case for interference under Article 226 of the Constitution of India, having regard not only to the facts found but also to the subsequent events which transpired. This court appointed a Managing Committee consisting of a retired Joint Registrar of this Court as Chairman and senior officers of the department. The said committee had to move us repeatedly for orders for payment of salaries, for receiving monies for running the school, admission of students and for several other purpose. We found that there was non-cooperation on the part of Mr. Chaturvedi and others in charge. We had Therefore to pass several orders. We cannot allow the attitude of Mr. S.N. Chaturvedi to prevail to the detriment of the school and result in depletion of the student strength which has come down already and is likely to come down further unless corrective measures are- applied. In a prime place like R.K. Puram in Delhi, there is sufficient demand for admissions as would be seen from the orders that we were required to pass from time to lime. If indeed the admissions arc allowed to be deliberately brought down by the petitioner and ultimately the school is closed, the prime possibility of use of land for other purposes cannot be ruled out. Land is granted by the Dda at concessional rates for running school. Therefore the effort on the part of the Government in seeking to take over and improve the school have to be commended. We arc Therefore of the view that this is not, in any event, a Fit case for interference.

(32) For the aforesaid reasons, the Cwp is dismissed with costs quantified at Rs. 5.000.00 .

(33) The interim arrangement for management made and the managing committee constituted vide order dated 26.7.96 by this Court will continue till the

end of the academic year and the examinations are concluded and results declared and in the meantime, Government can take steps to run the school in accordance with any scheme which they may propose to bring forth.