

**(Equivalent Citation:- 2008(4) AD(Delhi) 108, 2008(101) DRJ 484)**

**147 (2008) Delhi Law Times 729 (DB)**

**Delhi High Court**

***T.S. Thakur & Veena Birbal, JJ.***

**SOCIAL JURIST, A CIVIL RIGHTS GROUP—Petitioner**

***versus***

**GNCT & ORS.—Respondents**

***WP(C) 43/2006, CMs 1819/2007 and 16275 of 2007—Decided on 8.2.2008***

**(i) Constitution of India, 1950 — Articles 19(1)(g), 19 Clause (6) — Educational Institution — Establishment of — Right to freedom of trade and profession — Right to establish educational institution is fundamental right guaranteed under Article 19(1)(g) of Constitution — In terms of Article 19(6) of Constitution, said right is not absolute and is subject to reasonable restrictions.**

**[\[Para 18\]](#)**

**(ii) Delhi School Education Act, 1973 — Sections 3(1), 3(2), 3(3), 3, 4(1), 4(1) Proviso, 4(6) 19, 28, 34 — Delhi School Education Rules — Rules 44, 50, 51, 52 — Running of Unauthorised or Unrecognised Schools in Delhi — Applicability of Act — Power of Administrator to regulate school education extends to all schools in Delhi, recognised or unrecognised — A school can be established only with permission of Administrator granted in terms of Section 3(2) of Act — Any school established contrary to said provisions shall not be recognised by appropriate authority — Recognition of schools shall be granted only if school satisfies norms stipulated in Section 4(1) of Act r/w Rules 50 and 51 of Rules framed under Act.**

**[\[Para 29\]](#)**

**(iii) Delhi School Education Act, 1973 — Sections 20, 34 — Delhi School Education Rules — Rules 50, 51 — Unrecognized and Unauthorised Schools in Delhi — Taking over management of schools, whether recognised or not is envisaged only in cases where managing committee or manager has neglected to perform any of the duties imposed upon it by or under said Act or Rules made thereunder — Occasion to take over would arise only if school was established with permission of administrator — Total breakdown of machinery envisaged under Act for regulating and organizing planned development of school education in Delhi — Situation not totally irremediable — Director of Education shall undertake survey and identify unauthorised and unrecognised educational institutions running in Delhi — Such of the institutions as satisfy requirements of Section 4 of Act r/w Rules 50 and 51 of Delhi School Education Rules, could be recognised upon proper evaluation of their infrastructure as stipulated by statutory provisions — Such of the others as do not satisfy requirements of statute or fail to seek waiver of**

compliance with provisions in terms of Rule 52 of Rules could be identified and their cases referred to local authority concerned for taking appropriate action by way of closure of institution in accordance with relevant statutory provisions — Necessary directions issued by this Court in this regard — Discussed.

[\[Paras 32 to 34\]](#)

(iv) Delhi School Education Act, 1973 — Sections 2(t), 2(u) — Definition — “Recognized school”, “school”.

[\[Para 24\]](#)

*Result: Ordered accordingly.*

**Case referred:**

*T.M.A. Pai Foundation & Ors. Etc. Etc. v. State Of Karnataka & Ors. Etc. Etc., [VII \(2002\) SLT 195](#)=AIR 2003 SC 355. (Relied)* [\[Para 18\]](#)

**Counsel for the Parties:**

For the Petitioner : *Mr. Anuj Aggarwal and Mr. Ashok Aggarwal, Advocates.*

For the Respondent : *Mr. J.R. Midha, Standing Counsel, Ms. Zubeda Begum, Addl. Standing Counsel with Addl. Director of Edn. (ACT).*

For the DDA : *Mr. Ajay Verma, Advocate.*

For the MCD : *Mr. Sanjeev Sabharwal, Advocate.*

For the Applicant in CM 1819/07 : *Mr. R.M. Sinha and Ms. Namita Sinha, Advocates.*

For the Adarsh Public School : *Ms. Maninder Acharya, Advocate.*