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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5614/2025**

Through: Mr. Puneet Singh Bindra, Mr. Vivek Kadyan, Mr. Nitin Saroha, Ms. Charu Modi, Ms. Sukriti Seth, Mr. Rishabh Gupta, Ms. Kriti Dang and Ms. Shanya Shukla, Advs.

versus

THE DIRECTORATE OF EDUCATION & ORS.....Respondents

Through: Mr. Dhruv Rohatgi, Ms. Chandrika Sachdev and Mr. Dhruv Kumar, Advs. for R-1/DOE
Mr. R.D. Singh and Mr. Prateek Jindal, Advs. for R-3

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER
30.04.2025

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CM APPL. 25587/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed seeking following relief:

“a. Issue a writ, order or direction in the nature of Mandamus commanding the Respondent No.1 & 2 to issue the Transfer Certificate (TC) of the Petitioner in favour of Respondent No.4.

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b. Award cost of litigation in favour of the petitioner and against the respondents.”

4. The case set out in the present petition is that petitioner is a minor child residing with her mother at House No. 163, G-Block, Palam Vihar, Gurugram (Haryana)-122017.

5. The mother of the child got separated from her husband i.e. petitioner's father on 10.04.2024 when the child was studying in class IIC in Montfort School, Phase-1, Ashok Vihar, New Delhi-110052. After separation, the mother of the petitioner shifted to Gurugram at the aforesaid address where her parents are stated to be residing. Thereafter, the child was admitted to Gems International School, C-2 Block, Palam Vihar, Gurugram, Haryana-122017.

6. The learned counsel appearing on behalf of the petitioner submits that the petitioner has now completed one year of her studies in the school at Gurugram but since the earlier school i.e. Montfort School, Phase-1, Ashok Vihar, New Delhi-110052 has declined the issuance of Transfer Certificate (TC) to the petitioner for the reason that the petitioner's father has written to the school for non-issuance of such Transfer Certificate (TC), the same is not being issued.

7. He submits that in the absence of Transfer Certificate (TC) from Montfort School, Phase-1, Ashok Vihar, New Delhi-110052, the petitioner has been promoted provisionally but the Gems International School at Gurugram is insisting on the Transfer Certificate (TC).

8. He submits that though the guardianship dispute is pending before the learned Family Court but no direction has been passed by the learned Family Court directing non-issuance of Transfer Certificate (TC) by Montfort

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School, Ashok Vihar.

9. In view of the above, issue notice.

10. Mr. Dhruv Rohatgi, the learned counsel appearing on behalf of respondent no.1 accepts notice. Likewise, Mr. R.D. Singh, the learned counsel appearing on behalf of respondent no.3 (father of the petitioner) also accepts notice.

11. However, there is no appearance on behalf of the respondent no.2/ Montfort School, as well as, on behalf of the respondent no.4/ Gems International School.

12. On a query posed by this Court, Mr. Singh fairly concedes that there is no order or direction passed by the learned Family Court either in the guardianship petition or in the divorce petition directing the Montfort School not to issue Transfer Certificate (TC).

13. He also fairly states that the respondent no.3 had made an application to the Montfort School for non-issuance of the Transfer Certificate (TC) to the petitioner since there is a litigation going on between the respondent no.3 as well as the mother of the petitioner.

14. Mr. Rohatgi refers to Section 5(3) of the Right of Children to Free and Compulsory Education Act, 2009, which reads thus:

“5(3) For seeking admission in such other school, the Head-teacher or in-charge of the school where such child was last admitted, shall immediately issue the transfer certificate:

Provided that delay in producing transfer certificate shall not be a ground for either delaying or denying admission in such other school:

Provided further that the Head-teacher or in-charge of the school delaying issuance of transfer certificate shall be liable for disciplinary action under the service rules

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applicable to him or her.”

15. A perusal of the above quoted provision clearly shows that the same mandates that the school cannot deny the issuance of Transfer Certificate (TC) to the child who has sought admission in other school. In the event of delay in issuance of Transfer Certificate, even a disciplinary action can be taken against the Head-Master or In-Charge of the school.

16. Needless to say that in a matrimonial or guardianship dispute, it is the interest of the child which is of paramount consideration. At this stage, apt would it be to refer to order dated 14.10.2024 passed by a coordinate bench of this Court in “**Sanavi Anand (Minor) & Ors. vs. Govt. of NCT of Delhi & Ors.**” [W.P.(C) 7639/2024] wherein it was observed as under:

“4. Keeping in mind the nature of the controversy, the Court finds it appropriate to dispose of the instant writ petition in the following terms:-

(i) Let the TC be issued by respondent no.2 and 3 with respect to petitioner no.1 and 2 within a period of 15 days from the date of receipt of the copy of the order passed today;

(ii) Let the TC be produced before respondent no.4-School;

(iii) The admission of petitioner no.1 and 2 shall be regularised by respondent no.4-School forthwith;

(iv) With respect to the argument raised by learned counsel for the parties that the admission de hors the extant rules is concerned, the Court finds that on account of the matrimonial dispute between the parents of the petitioners, the rights of the minor children should not be adversely affected;

(v) The Court, therefore, holds that no action shall be taken against respondent no.4-School, which appears to have bonafidely acted upon the request made by petitioner no.3. However, it is clarified that the rights and contentions of the husband and wife shall remain unaffected by this order and

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the fact that the admission of petitioner no.1 and 2 has been granted by respondent no.4-School should not be tilted in favour of any of the parties;

(vi) The guardianship of the petitioners shall be dealt with strictly in accordance with law without being influenced by any other proceedings.”

17. In view of the limited relief sought, the present petition can be disposed of without even issuing notice to the respondent no.2/ Montfort School.

18. In view of the above discussion, the petition is disposed of directing the respondent no.2/ Montfort School to issue the Transfer Certificate (TC) to the petitioner within a period of one week from the date of receipt of copy of this order. However, in case the respondent no.2/School feels aggrieved with the present order, it shall be at liberty to file an application to seek revival of the present petition.

19. The petition stands disposed of in the above terms.

VIKAS MAHAJAN, J

APRIL 30, 2025

N.S. ASWAL