
(2003) 02 MP CK 0099

In the Madhya Pradesh High Court

Case No : Writ Petition No. 547 of 2003

Abhinav Garima Vidya Niketan School

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 06-02-2003

Acts Referred:

Madhya Pradesh Madhyamik Shiksha Adhiniyam, 1965 — Section 28(4), 9(4)

Citation : (2004) 1 MPLJ 141

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : Sharad Verma, for the Appellant; Seema Agrawal for Respondents No. 1, 2 and 4 and Smt. J. Choudhary, for the Respondent

Final Decision : Dismissed

Judgement

Arun Mishra, J.

Petitioner in the instant writ petition is assailing the action of the Board of Secondary Education in not granting the recognition for the academic session 2002-2003 to the petitioner's institution to run class Xth and XIIth.

Petitioner submits that there was lethargy on the part of respondent No. 2, Board in making the inspection. This Court in MCC No. 1205/2002 (decided on 13-12-2002 by brother Deepak Misra, J.) has reiterated the directions issued in MCC No. 203/2001. Petitioner submits that petitioner institution is having good reputation. The requisite fee for inspection was deposited. The Board on 6-4-2002 directed inspection as per letter P.3. Petitioner's case was recommended for recognition. The inspection was made on 18-12-2002. Petitioner prayed for recognition with the respondents in view of the recommendation P.4 dated 26-11-2002, however, there was inaction on the part of the respondents, hence, recognition has not been granted. Writ petition has been filed before this Court for grant of recognition for the academic session 2002-2003.

A return has been filed by the respondent, Board of Secondary Education. It is pointed out that several deficiencies were found in inspection. There was no departmental permission granted by the State Government Education Department. There was paucity of trained teachers and lecturers in the school. There were less number of books in the library and inadequate furniture in school. There was only one laboratory instead of 3 to 5 as per requirement of the subjects and instruments/equipments were inadequate. The financial condition was not sound and the sale deed was also not legally valid. Petitioner was required to make good the deficiencies but they were not removed. Hence, the decision was taken by the Board on 2-7-2002 rejecting the application which has been produced. The action of Board is proper and calls for no interference.

On perusal of documents it is clear that report P.4, which is in favour of the petitioner is dated 26-11-2002. As per recognition regulations, 1994 framed by the Board of Secondary Education in exercise of power u/s 28(4) of the M.P. Madhyamik Shiksha Adhiniyam, 1965, the regulation provides that application has to be moved before one year of the academic session in question for which recognition is sought. It has been clearly stated in the proviso that in case students have to appear in the examination in 1997, the forms for recognition should be received by the Board by 15th April, 1995 i.e. one year prior to the commencement of the academic session in question and upto 30th June the application for recognition can be received with late fee and in no case the application can be entertained if filed after 30th June, however, in exceptional circumstances Chairman can entertain the application filed upto 30th July but such an application is required to be filed one year in advance to the commencement of the academic session and two years before the examination.

Learned counsel for the Board states that they decide about the recognition by end of August of the academic session in question but Board cannot be allowed to undertake exercise of recognition once time bound calendar of academic session is set in motion; admissions are to be granted by 30th July not later than 12th August. The Board must decide about the recognition in every case on or before 30th April before commencement of academic session. In future the Board has to strictly adhere to the time frame and to decide about recognitions by 30th April as the academic session commences from 1st July of the concerned year. It is submitted by the learned counsel for the petitioner that this Court in MCC No. 1205/2002 has allowed time for exercising of power by the State Govt. u/s 9(4) of the Act till 30th September. Learned counsel for the petitioner submits that as per other guidelines issued by this Court in MCC No. 203/2001 and MCC No. 1205/2002 the admissions are to be over by 31st July of the academic session and cannot be given after 12th August. Examinations forms are to be filled by 30th September, 2002. Learned counsel submits that direction made in MCC No. 1205/2002 cannot be adhered to and have to be diluted or violated in case State has to exercise power till 30th September, in my opinion, when the admissions are to be completed by 31st July and in no case after 12th August. List of students has to be furnished, examination forms are to be filled by 30th

September, in my opinion, it is not proper for the State to exercise the powers u/s 9(4) of the Act, after admission dates are over as no admission can be given before grant of recognition. It is not proper to exercise the power after 1st July, 2002 because academic sessions commences w.e.f. 1st July and if admissions are to be given as per calendar fixed and guidelines issued are to be strictly adhered to, in my opinion, State should exercise the power u/s 9(4) on or before 30th June as academic session commences from 1st July. Exercise of power belatedly disturbs time bound schedule, student must obtain instructions for full year and cannot be allowed to be admitted before recognition is granted. Interest of education requires that students must be aware at the commencement of academic session whether school is having recognition or not. The directions issued by this Court about admissions to be made by 30th July and in no case after 12th August have to be strictly adhered to. It is clarified that this Court is not modifying order passed in MCC No. 203/2001 and MCC No. 1205/2000 by brother Dipak Misra, J. Since it is contended that State cannot be allowed the time till 30th September of the on going academic session for which recognition is sought as it is contended that another directions with respect to the admissions etc., filling of the examination forms have to be violated in case State Govt. gives permission u/s 9(4) of M.P. Madhyamik Shiksha Adhiniyam, 1965 to decide the recognition of the matter till 30th September of the academic session. However, in the instant case State has not exercised the power even upto 30th September of the academic session favourable report is prepared in the month of November, 2002 which is of no avail considering calendar of events and time frame; requirement of attendance etc.

There are deficiencies of serious nature in school which form the basis of the order of the Board as mentioned in the return and the order dated 2-7-2002. It is also significant that petitioner has not challenged the order dated 2-7-2002 in the present writ petition by which Board had refused to grant the recognition for the session 2002-2003. We are in February, 2003. Academic session is virtually over. Only the examination remain. Thus, no interference is required to be made in the writ petition. Action of Board is proper. However, for the next academic session 2003-2004, let the Board take the decision by 30th April, 2003.

It is also regrettable that even departmental permission was not obtained and still the admissions were given by the school and recognition application was rejected. Still the students have been allowed as special private candidates. In future Board is directed not to accept the forms of such students in any capacity from such school so as to put a check to an illegal upcoming of educational shops as observed by the Apex Court in *Students of Dattatraya Adhyapak Vidyalaya vs. State of Maharashtra*, 1993(1) MPWN 17. It has been held thus:

Heard counsel for the petitioner. The SLP is dismissed. We are coming across cases of this type very often where allegations are made that innocent students are admitted into unrecognised schools and are made to suffer. Some Courts out of compassion occasionally interfere to relieve the hardship. We find that the

result of this situation is total indiscipline in the field of regulation. We suggest to the States to take steps that adequate publicity be given that unrecognised institutions have no right to run and admit students and their claim to sit in the examination would not be permitted. Government should also come forward to prosecute unrecognised institutions and their organisations which admit students by suppressing the proof of non-recognition: Dismissal of this SLP does not preclude the petitioner to move the State Government for such relief as is admissible in accordance with rules.

Writ petition is dismissed with the aforesaid directions. No order as to costs.