
(2014) 08 KAR CK 0095

In the Karnataka High Court

Case No : Writ Petition No. 5313 of 2014 (EDN-RES)

A.R. Education Trust

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 02-08-2014

Acts Referred:

Citation : (2014) 6 KarLJ 133

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : S. Basavaraj, Advocate for the Appellant; B. Veerappa, Government Advocate, Advocate for the Respondent

Judgement

A.S. Bopanna, J.

1. Petitioner is before this Court seeking for a declaration that the action of the respondents to enforce the provisions of the Right of Children to Free and Compulsory Education Act, 2009 ("the RTE Act" for short) on Boarding school established and run by the petitioner, namely, Mysore Public School, Heggada Devana Kote Road, Mysore is without jurisdiction. The petitioner is also seeking that the respondents be restrained from enforcing the provisions of the RTE Act against the petitioner-school. Petitioner contends that it is a Trust and is running a residential school known as Mysore Public School at Heggada Devana Kote Road, Mysore. The school is affiliated to the Council for the Indian School Certificate Examinations ("ICSE" for short). In that view it is contended that the provisions of the RTE Act would not be applicable to residential schools. The grievance of the petitioner is that despite the said position, the respondents have issued the show-cause notice dated 7-12-2013. Though the petitioner has replied to the same, the respondents without taking any decision on the same have sought to implement the provisions of the Act against the petitioner and in that regard public statements have also been issued that the petitioner is not adhering to the provisions of the RTE Act. It is in that circumstance the petitioner is before this Court.

2. Learned Government Advocate would submit that the petition is premature since no adverse order has been passed against the petitioner subsequent to the issue of the show-cause notice. The learned Government Advocate further contends that the petitioners have not placed any material to establish that they are residential schools. In any event, these aspects would be considered while taking note of the reply submitted by the petitioner. In the light of the above, the fact that a show-cause notice dated 7-12-2013 (Annexure-H) has been issued to the petitioner is evident. It is also seen that the petitioner, in fact has replied to the same as at Annexures-J and K. The case of the petitioner is that they are residential school and in that regard they are also relying on the guidelines as at Annexure-D to the petition. The said guideline is stated to be based on the decision of the Hon"ble Supreme Court in the case of Society for Un-aided Private Schools of Rajasthan Vs. Union of India (UOI) and Another, . Though such contention has been put forth by the petitioner in the instant petition, taking note of the fact that the petitioner is before this Court at a stage when the show-cause notice had been issued to the petitioner, it is appropriate that the respondents will have to be given the opportunity of taking note of the reply and thereafter passing an order in accordance with law. Needless to mention, if there are any further documents relied on by the petitioner it would also be open to the petitioner to submit the same to the respondents in addition to the reply that has already been made to the show-cause notice dated 7-12-2013. On submission of the same, respondent 2 shall take into consideration all aspects of the matter including the law laid down by the Hon"ble Supreme Court and thereafter take a decision and convey the same to the petitioner in accordance with law. Until a decision is taken by the respondents, they shall not precipitate the matter as against the petitioner.

In terms of the above, the petition stands disposed of.