

(1999) 04 CAL CK 0043

In the Calcutta High Court

Case No : Civil Appellate Jurisdiction M.A.T. No. 320 of 1999 with M.A.T. No. 329 of 1999 with A.P.O.T. No. 66 of 1999 with G.A. No. 400 of 1999

Bajrang Lal Agarwal and Others

APPELLANT

Vs

The Council for the Indian School Certificate Examinations
and Others

RESPONDENT

Date of Decision : 16-04-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 2 CALLT 485

Hon'ble Judges : Satyabrata Sinha, J; Samarendra Nath Bhattacharjee, J

Bench : Division Bench

Advocate : Mr. L.C. Bihani and Mr. Mihir Kundu, Mr. S. Pal, Mr. Shyamal Sarkar, Ms. Krishna Dhandhanian, Mr. Saktinath Mukherjee, Ms. Debjani, Sengupta and Mr. Sandipan Banerjee, for the Appellant; Mr. Utpal Basu, Mr. Suman Dutta and Mr. S. Baid, for the Respondent

Judgement

S.B. Sinha, J.—These appeals are directed against an order dated 27th January. 1999 passed by a learned single Judge in W.P."No. 5S69(W) of 1998, whereby and whereunder the learned Judge dismissed the writ application.

2. An appeal had been filed on behalf of Bajrang Lal Agarwal, guardian of the student being appeal No. M.A.T. 320 of 1999 upon obtaining leave of this court. An appeal has also been filed against the said order by the Managing Committee of the School being M.A.T. 392 of 1999. By an interim order dated 12.2.99. this court passed the following order:

"Although normally this court in a case where no affiliation exists does not allow students of an unaffiliated institution to appear at the examination keeping in view the decisions of this court as also the Supreme Court of India, however, having heard the learned counsel for the parties at great length, we are of the opinion that these appeals raise substantial questions of law as regards interpretation of the provisions of Chapter I of Council for the Indian School

Certificate Examinations vis-a-vis the conduct of the Parties. In this view of the matter, we direct the council for the Indian School Certificate Examinations to allow the students of C.F. Andrews Memorial Education Society at Raghunathpur, Jhargram, District Midnapore to appear at the ensuing I.C.S.E. Class-X Examination which is scheduled to be held in the month of March, 1999. Appearance of the students in the said Examination shall, however, be without prejudice to the rights and contentions of the council and shall abide by the result of the appeals and/or the order of extension of provisional affiliation which may be granted by It. It is made clear that all the students would appear at the Examination at their own risk and costs, and they shall not claim any enquiry whatsoever therefore, The council for the Indian School Certificate Examinations need not publish the results of the students concerned till disposal of these appeals or any other order which may be passed by this court. In terms of the directions issued by the learned trial Judge. It is stated that a copy of the inspection report has been served upon the authorities of the school. The School authorities shall file a reply, If not already filed, within 1 week from date. The council for the Indian School Certificate Examinations shall cause another inspection of the school to be held within 3 weeks from date. Such inspection be held at the cost of the School authorities and should be confined and report should be made only for the purpose of grant of extension of provisional affiliation. It will be open to the authorities of the council to point out what deficiencies, if any, are required to be met by the School authorities. In details. The authorities of the school shall be entitled to ask for any other or further details as regards requirement for obtaining extension of provisional affiliation, and such particulars shall be furnished at the cost of the school authorities."

After hearing the learned counsel for the parties in details, we requested Mr. Bose, learned counsel appearing on behalf of the respondent No. 1 to seek instruction as to whether keeping in view the peculiar facts and circumstances it is inclined to publish the result of the students who had appeared at the examination pursuant to the said interim order. When the case was called on, the learned counsel has placed before us a written instruction of the respondent No. 1 dated 16th April 1999, from a perusal whereof it appears that the council has been pleased to accept the suggestion of this court to publish the result of the candidates of C.F. Andrews Memorial School, who appeared for the I.C.S.E. March 1999 examination without any further concessions for grant of affiliation of the school or extension towards the same. It is placed on record that the respondent No. 1 has rejected the school's application for grant of further extension. If the school authorities are aggrieved by any order which has been passed during the pendency of this appeals or the writ application, it will be open to them to question the validity or legality thereof. It is also made clear that in the event the Managing Committee of the School has filed any application for grant of permanent affiliation, the same may be considered on its own merits. However, if such application has not been filed, the same may be filed and as and when the same is done, it goes without saying that the respondent No. 1 shall

consider it on its own merit.

4. Ms. Sengupta, learned counsel, submits that before passing the order dated 30th March, 1999 a copy of the inspection report has not been supplied to the school authorities. The respondent No. 1 is directed to supply a copy of the said inspection report to the appellant school. Any other or further details may be asked for by the school authorities by respondent No. 1.

5. In view of the matter, these appeals and the writ applications are disposed of in view of the acceptance of or suggestion by the respondent No. 1 that it would publish the result of candidates of the C.F. Andrews Memorial School who had appeared for the I.C.S.E. March. 1999 examination.

6. This order, however, shall not prevent the respondent No. 1 to grant extension of affiliation of the school authorities or condonation of their deficiency if any. It also goes without saying that it will be open to the respondent No. 1 in terms of the regulation, to issue any further or other direction.

The appeals and the writ applications are disposed of without any order as to costs.

This judgment also governs A.P.O.T. 66 of 1999 and C.A. 400 of 1999.

Let a plain copy of this order duly countersigned by the Assistant Registrar (court) be handed over to the learned counsel for the parties on unusual undertaking.

S.N. Bhattacharjee, J.

7. I agree.

8. Appeals disposed of