

(2010) 01 KAR CK 0005
In the Karnataka High Court
Case No : Writ Petition No. 7048 of 2009

Jan Shikshan Sansthan

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 11-01-2010

Acts Referred:

Citation : (2010) 3 KarLJ 124

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : K. Sreedhar, for the Appellant; Y. Hariprasad, for the Respondent

Judgement

S. Abdul Nazeer, J.—The Ministry of Human Resources Development (Department of Elementary Education and Literacy) accorded permission for setting up of two Jan Shikshan Sansthans during the year 2001-02 as per the order at Annexure-F, dated 11-3-2002. The petitioner was permitted to set up one of the institutions under the aforesaid order at Mandya District. The petitioner has accordingly set up an institution in terms of the said order.

2. By a notice dated 7-12-2004 (Annexure-B), the Under Secretary to the Government of India, Ministry of Human Resources Development requested the petitioner to send parawise comments on investigative audit of the institution. A copy of the audit report was also enclosed along with the said notice. The petitioner sent a reply to the said notice as per Annexure-D, dated 23-3-2005. This was followed by yet another parawise comments dated 23-2-2008 (Annexure-E). The first respondent has passed an order as per Annexure-F, dated 30-1-2009 cancelling the sanction accorded to the petitioner to set up the institution. The petitioner has called in question the validity of the said order in this writ petition.

3. The respondents have filed their statement of objections seeking to justify the impugned order.

4. I have heard the learned Counsel for both the parties.

5. It is not in dispute that under Annexure-A order, the petitioner was permitted to set up a Jan Shikshan Sansthan at Mandya District. It is also not in dispute that the Under Secretary to the Government of India, Ministry of Human Resource Development requested the petitioner to send parawise comments to the investigative audit report. The petitioner has sent a detailed report as per Annexure-D on 23-3-2005, followed by another report as per Annexure-E, dated 20-3-2008. The first respondent has cancelled the sanction accorded to the petitioner for establishing the institution as per the order at Annexure-F. In the notice at Annexure-B, the petitioner was not called upon to show cause as to why the sanction accorded to it should not be cancelled. It is the first principle of civilised jurisprudence, that a person against whom any action is sought to be taken or whose right or interest being affected should be given a reasonable opportunity to defend himself. The basic principles of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice of the case against him so that he can adequately defend himself. I am of the view that the order impugned is opposed to the principles of natural justice.

6. In the result, the writ petition succeeds and it is accordingly allowed in part. The order dated 30-1-2009 at Annexure-F passed by the 1st respondent is hereby quashed. However, liberty is reserved to the respondents to take fresh action against the petitioner in accordance with law if need be. No costs.