
(2003) 03 MP CK 0032

In the Madhya Pradesh High Court

Case No : Letter Patent Appeal No. 102 of 2003

Jyoti Prakash Shukla

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 31-03-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

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

Citation : AIR 2004 MP 100 : (2003) 3 MPHT 317 : (2003) 2 MPJR 483 : (2003) 4 MPLJ 421

Hon'ble Judges : Bhawani Singh, C.J; Sugandhi Lal Jain, J

Bench : Division Bench

Advocate : Shiv Prabhakar Singh, for the Appellant;

Final Decision : Dismissed

Judgement

S.L. Jain, J.

Being aggrieved by the order 6-2-2003 passed by the learned Single Judge in Writ Petition No. 529/2003, the appellant has filed this Letters Patent Appeal under Clause 10 of Letters Patent.

Facts shorn in details and necessary for disposal of this appeal are as follows. Appellant is Secretary of the Devi Rudhpriya Shiksha Prasara Samiti, Chhatarpur (hereinafter referred to as "Samiti"). The said Samiti opened a school, i.e., Adrash Kanya Higher Secondary School, in the year 2001 with the permission of the District Education Officer, Chhatarpur. The appellant applied for recognition of this institution for high school and higher secondary school examination for the academic session 2003 but because of certain deficiencies such as want of departmental permission from the State Government for running 12th Class, lack of trained teachers, non-availability of play ground, proper infrastructure etc., and absence of concrete plan for the construction of the school building, the respondent No. 1 vide order dated 22-6-2002 (Annexure P-3) declined to accord the recognition to the Samiti.

It is put forth by the appellant that after receiving the said communication dated 22-6-2002 the Samiti removed all the short comings and applied afresh for grant for recognition to the respondent No. 2 alongwith necessary forms and also sent the admission list of students. In the said school 36 students in 10th Class and 37 students in 12th Class obtained admission and all of them attended school as regular students. Despite the fact that all necessary requirements were fulfilled, the respondents did not accord recognition as prayed and at the last moment declared the students of the school as special private candidates, which adversely affected their career and caused irreparable loss to them. The examination centre was fixed at a distance of 100 Kms. and the students were required to deposit extra fees.

When the respondent No. 2 rejected the recognition application, Samiti approached the State Government and submitted an application u/s 9 (4) of Madhyamik Shiksha Adhiniyam, 1965 (hereinafter referred to as the "Adhiniyam"). The State Government appointed a committee for the inspection of the school run by the Samiti. The committee submitted its report on 19-9-2002 in favour of the school.

It is put forth by the appellant that in MCC No. 203/2001, decided on 29-3-2001 this Court has issued the following direction with regard to exercise of powers by the State Government u/s 9 (4) of the Adhiniyam.

"The State Government, while exercising its power u/s 9 (4) of M.P. Madhyamik Shiksha Adhiniyam, 1965 may do so in regard to the conferment of the recognition or any other ancillary matter thereto latest by 30th September."

But the State Government did not exercise its power by 30-9-2002. The State Government had sufficient time to recognize the said institution. The petitioner, therefore, by filing Writ Petition No. 529/2003 prayed for issuance of directions to the respondents to grant recognition to the said institution for the academic session 2002-2003.

Combatting the allegations made in the petition, respondent/Board filed the return. According to the Board, many opportunities were given to the appellants to make the deficiencies good, but the deficiencies persisted, therefore, Board had no option but to reject the application for recognition.

Learned Single Judge vide impugned order held that the petitioner did not obtain the departmental permission from the State Government which is pre-requisite for grant of recognition. Other short comings also persisted. Therefore, the learned Single Judge dismissed the petition. It is against this order of the learned Single Judge that the appellant has filed this appeal.

We have heard Shri Prabhakar Singh, learned Counsel appearing for the appellant and perused the record of the case, including the impugned order.

The main thrust of the contentions raised by the learned Counsel for the appellant is that the learned Single Judge ought to have given a finding that all

deficiencies have been removed by the appellant, and ought to have directed the respondents to recognise the petitioner's institution. It may be observed in this regard that the Court exercising writ jurisdiction does not sit as a Court of appeal but merely reviews the manner in which the decision is taken. The Board can fix its own norms for the recognition. The scope of judicial review in such a matter is limited. This Court will not interfere so long as the approach adopted by the Board and the Government in the matter of recognition of the institution is fair and reasonable. In this case, the approach of the Board does not suffer from vice of malafide, non-application of mind, perversity or arbitrariness.

Many deficiencies were brought to the notice of the appellant/Samiti. It could not satisfy the authorities that all the deficiencies have been removed. Permission was not obtained from the State Government, which was a pre-requisite. There was no trained staff, and no land for play ground. Hence, the appellant cannot claim recognition. The Board issued executive instructions on 9-5-2002. No adequate response was given by the appellant, therefore the Board was justified in rejecting the application for recognition. Unless the pre-requisites for recognition are satisfied, the appellant cannot claim the recognition as of right. However, if the appellant/Samiti feels that it has made good all the deficiencies and constructed the school building and provided facilities of laboratory, play ground and study room etc., it is at liberty to-apply for recognition afresh.

At this stage, learned Counsel for the appellant submits that the appellant has already applied for fresh recognition for the year 2003-2004. This application shall be decided by the Board on its merit in accordance with law. No specific directions of this Court in this regard are necessary. The appellant shall be at liberty to pursue the application for recognition.

No other point for consideration of this Court, has been raised by the appellant in this appeal.

For the foregoing reasons, we find that the appeal is devoid of merit and the same is dismissed in limine.