

(2016) 10 KAR CK 0047

In the Karnataka High Court

Case No : Writ Petition No. 53568 of 2016 (EDN GIA)

Kuvempu B.C.M. Educational Society (R)

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 07-10-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 15, Article 226

Citation : (2017) 1 AirKarR 177

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : Sri. S.N. Bhat, Advocate, for the Petitioner; Smt. Pramodhini Kishan, HCGP, for the Respondent Nos. 1 to 3

Final Decision : Allowed

Judgement

B. Veerappa, J. - Smt. Pramodhini Kishan, learned High Court Government Pleader is directed to take notice on behalf of respondents.

2. The petitioner is before this Court for writ of mandamus directing the 1st respondent to consider the report dated 2.1.2016 submitted by the 2nd respondent as per Annexure-F and also the representation dated 26.9.2016 of the petitioner vide Annexure-G for grant-in-aid.

3. It is the case of the petitioner that the petitioner institution had commenced a pre-university college at Arudi, Doddaballapura taluk, Bangalore rural district in the academic year 1987-88. The said institution is run by a backward community people. After obtaining necessary permission from the competent authority, the Junior College was shifted to Koratagere Town since from the academic year 2005-06 and presently, the Junior College is being run at Koratagere Town. Since the year of commencement i.e. from 1987-88 up to the present academic year, the College is being run by the Management without any obstruction. The Management is running an Arts College and there are sufficient number of students in the college from the beginning. The college is being run by the

Management for 26 years without any break. The State Government by a Gazette Notification dated 15.10.2007 vide Annexure-A has made a provision to bring the educational institutions which are being commenced from 1.6.1987 to 1992-93 academic year under the grant-in-aid code. The gazette notification contains certain conditions and if they are complied with and the education institution is being ran without any break, the institution can be included or brought under grant-in-aid. Therefore the petitioner made an application to the 3rd respondent to include the institution of the petitioner to grant-in-aid. The 3rd respondent-Deputy Director had directed the petitioner to clarify some defects in the application. The petitioner has rectified all the defects and the proposal is sent to the 3rd respondent. Thereafter the petitioner filed W.P. No. 12838/2013 before this Court for a writ of mandamus directing the 2nd and 3rd respondents to consider and pass appropriate orders to include the college run by the petitioner to cover under the grant-in-aid and this Court after hearing both the parties, by an order dated 16.9.2013 has directed the 3rd respondent to consider the representation of the petitioner within a period of three months from the date of receipt of the order.

4. It is further case of the petitioner that on the basis of order of this Court, the respondents have formed a committee consisting of three members who visited the petitioner institution and submitted the report on 7.11.2015 for inclusion of the Junior College under the grant-in-aid with some condition. On the basis of the report received by the 3rd respondent from the three member committee, the 3rd respondent had recommended to the 2nd respondent to include the college ran by the petitioner to cover under the grant-in-aid and the 2nd respondent in turn has recommended to the 1st respondent on 2.1.2016 as per Annexure-F. In spite of the same, the 1st respondent has not passed orders till this date. Therefore, the petitioner is before this Court for the reliefs sought for.

5. I have heard the learned counsel for the parties to the lis.

6. Sri S.N. Bhat, learned counsel for the petitioner - institution vehemently contended that it is an undisputed fact that the petitioner is running the Pre-University college from 1987-88 till today without any break and it is also not in dispute that Respondent Nos.2 and 3 on the basis of the report submitted by the three-man committee recommended to the 1st respondent for inclusion of the petitioner college for the grant-in-aid. In spite of the recommendation, the 1st respondent has not passed the order. Therefore non-action of the 1st respondent is in utter violation of Articles 14 and 15 of the Constitution of India. Therefore he sought to allow the writ petition.

7. Per contra, Smt. Pramodhini Kishan, learned High Court Government Pleader submits that the 1st respondent will consider the representation dated 26.9.2016 made by the petitioner as per Annexure-G, if not already considered and pass orders in accordance with law.

8. In view of the rival contentions of the learned counsel for the parties, the only

point that arises for consideration in the present writ petition is "whether the petitioner has made out any prima facie case to issue writ of mandamus to the 1st respondent to consider the representation dated 26.9.2016".

9. I have given my anxious consideration to the arguments advanced by the learned counsel for the parties and perused the entire material on record.

10. It is an undisputed fact that the petitioner is running the Pre-University college from the academic year 1987-88 till today without any break. It is also not in dispute that on the basis of the application filed by the petitioner for inclusion of the petitioner institution to grant-in-aid and on the basis of the directions issued by this Court on 16.9.2013 in W.P. No.12838/2013, a three man committee was constituted and accordingly, the committee has recommended by a report dated 7.11.2015 for inclusion of the college run by the petitioner for grant-in-aid. In pursuance of the same, the 3rd respondent has recommended to the 2nd respondent and in turn, the 2nd respondent has recommended to the 1st respondent as can be seen from Annexure-F dated 2.1.2016. The fact remains that the 1st respondent has not considered the report - Annexure-F and passed orders till today.

11. For the reasons stated above, the point raised in the present writ petition is to be answered in the affirmative holding that the petitioner has made out a case for issue of writ of mandamus as prayed for.

In view of the aforesaid reasons, Writ Petition is allowed. The 1st respondent - State Government is directed to consider the report dated 2.1.2016 given by the 2nd respondent as per Annexure-F and also the representation dated 26.9.2016 of the petitioner as per Annexure-G for inclusion of the college run by the petitioner institution for grant-in-aid and pass orders in accordance with law, if not already considered, within a period of eight weeks.