

(2003) 08 DEL CK 0013
In the Delhi High Court
Case No : CW 4811 of 2000

Model Ways Educational and Welfare Society(Regd.) and
Another

APPELLANT

Vs

Lt. Governor and Another

RESPONDENT

Date of Decision : 25-08-2003

Acts Referred:

Delhi School Education Act, 1973 — Section 4(2)

Citation : (2003) 6 AD 498 : (2003) 106 DLT 666 : (2004) 72 DRJ 112

Hon'ble Judges : Badar Durrez Ahmed, J

Bench : Single Bench

Advocate : Vikram Nandrajog and Pramod Gupta, for the Appellant; George Paracken, for the Respondent

Judgement

Badar Durrez Ahmed, J.—In this petition the order dated 31.5.2001 passed by the Lt. Governor in an appeal u/s 4(3) of the Delhi School Education Act 1973 is impugned. The issue at hand is that the school run by the petitioner No.1 had moved an application on 30.3.1999 for upgradation from secondary to senior secondary level. In terms of sub-section (2) of Section 4 of the Delhi School Education Act 1973 a period of four months from the date of receiving of such application is prescribed, within which, the appropriate authority is required to decide the application for recognition. In case, the authority decides not to grant recognition, it is required to communicate the reasons for not granting such recognition. It goes without saying that in view of this provision the decision of the authority concerned is required to be passed within four months from the date of making of the application. In this case, unfortunately, this is not what has happened. The decision was taken on 10.1.2000 and communicated to the petitioner on 2.2.2000 i.e. much after the four months period had elapsed.

2. What is interesting in this case is that in the intervening period new norms have been made and new guidelines have been specified for the grant of recognition to schools. These norms and guidelines were brought out on

24.12.99. It is admitted that the application of the petitioner was rejected on 10.1.2000 and the same was communicated to the petitioner on 2.2.2000. It is also an admitted position that had the application been considered in terms of the norms existing prior to 24.12.94, the petitioner would be eligible for recognition of its upgradation insofar as the question of area and space of availability is concerned. It is also not disputed that under the new guidelines, the petitioner would not be eligible for grant of recognition. Therefore, the whole question is whether the norms and/or guidelines which were issued and published on 24.1.99 had prospective operation only or also had retrospective operation? This issue is no longer rest integra in view of the fact that this court in the case of Bal Vikas Public School and Another vs. Government of NCT of Delhi and Another (CW.No.3838/2000) decided on 3.1.2003 as well as in the case of Glory Public School and Another vs. Lt Governor, Government of NCT of Delhi (CW.No.2126/2003) decided on 28.5.2003 categorically held that the said norms only had prospective operation and do not operate retrospectively. In view of this, it is clear that the impugned order passed by the Lt Governor cannot be sustained and the same is set aside. The case of the petitioner will have to be governed insofar as the question of space availability and area is concerned under the norms as were applicable on the date of the application. The authority concerned will decide the application of the petitioner within six weeks from today.

3. The writ petition is accordingly disposed of. No order as to costs.