
(2017) 09 KAR CK 0027
In the Karnataka High Court
Case No : 1067-1074 of 2017 (EDN-RES)

NATIONAL EDUCATION TRUST, & ORS.

APPELLANT

Vs

NATIONAL COMMISSION FOR MINORITY EDUCATIONAL
INSTITUTIONS GOVERNMENT OF INDIA, & ORS.

RESPONDENT

Date of Decision : 08-09-2017

Acts Referred:

Citation : (2017) 09 KAR CK 0027

Hon'ble Judges : Subhro Kamal Mukherjee, P.S.Dinesh Kumar

Bench : DIVISION BENCH

Advocate : S.M.CHANDRASHEKAR, ASHWIN CHIKKAMATH, A.S.PONNANNA,
V.SREENIDHI

Judgement

1. The appellants in these appeals are writ petitioners before the Hon''ble Single Judge. They run Educational Institutions and claim that they are either linguistic or religious minority institutions.
2. The petitioners challenged the directions issued by the State Government to admit students under the Right of Children to Free and Compulsory Education Act, 2009 (in short "the RTE Act").
3. The Hon''ble Single Judge, disposed of the writ petitions, directing the writ petitioners to make a representation to the authorities for declaration of their status. Till such time, it was directed to give admission to the extent of 25% per centum of the total strength by admitting the students recommended by the respective government under the RTE Act.
4. We have heard Mr.S.M.Chandrashekar, learned senior advocate appearing for the appellants and Mr.A.S.Ponnanna, learned additional advocate general appearing for the State respondents.
5. The status of a party cannot be decided by the Court, as it involves factual determinations.

6. We feel that when there is a National Commission for Minority Educational Institutions, constituted under the statute, the said authority must determine the status of the parties. We, therefore, grant liberty to the individual school authorities to make their individual representation to the National Commission for Minority Educational Institutions, seeking for declaration of their status, be it linguistic or religious. Such representation shall be filed within four weeks from today.
7. If such representation is made, the said Commission shall give an opportunity of hearing to all concerned in the matter and decide the case, by passing a reasoned and speaking order.
8. We request the Commission to determine the cases of the institutions, who submit their representations, as expeditiously as possible, preferably within six months from the date of submission of such representations.
9. We are empowering the Commission to decide the minority status, as we do not find any available authorities to determine the status of the minority institutions under the National Commission for Minority Educational Institutions Act, 2004.
10. Till such time, the operation of the order of the Hon''ble Single Judge shall remain stayed.
11. The Government of Karnataka shall not insist upon admission of 25% per centum of the total strength of the students, as recommended by them under the RTE Act, insofar as the appellants - institutions are concerned.
12. With the above observations, these writ appeals are disposed of, by modifying the order of the Hon''ble Single Judge, as aforesaid.
13. In view of disposal of the appeals, the pending interlocutory applications do not survive for consideration and are, also, disposed of.
14. We make no order as to costs.