
(2012) 02 DEL CK 0149

In the Delhi High Court

Case No : Writ Petition (C) 1167 of 2012 and CMs 2518-20 of 2012

Nehruji Central Hr. Sec. School and Another

APPELLANT

Vs

Central Board of Secondary Education

RESPONDENT

Date of Decision : 28-02-2012

Acts Referred:

Citation : (2012) 3 AD 331

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Sai Krishna Rajagopal, Mr. Hari Shankar and Mr. Vikas Singh Jangra, alongwith Ms. P. Ankayarkanni, Principal of Petitioner No. 1/school and Mr. P.M. Ramasamy, Petitioner No. 2 in person, for the Appellant; Amit Bansal, for the Respondent

Judgement

Hima Kohli, J.—The present petition is filed by the petitioners praying inter alia for directions to the respondent/CBSE to consider the application submitted by them to the respondent/CBSE for affiliation, on the ground that petitioner No.1/school fulfills all the requirements of the respondent/CBSE for grant of affiliation.

2. When the matter was taken up on the last date of hearing, i.e., on 27.02.2012, counsel for the petitioners had stated on instructions from his clients that the petitioners did not wish to press the present petition as regards their claim for affiliation of petitioner No.1/school with the respondent/CBSE, as they have already filed an application in this regard and shall pursue the same with the respondent/CBSE directly. However, the anxiety expressed by the petitioners is with regard to their plea that special permission may be granted by the respondent/CBSE to eleven students, who are required to appear in the class X examination commencing on 02.03.2012 in the All India Secondary School Examination 2012, as accorded by the respondent/CBSE on an earlier occasion on 14/15.01.2010, to four students in the academic year 2009-10. The details of the eleven students have been given in para 4 of CM No.2518/2012 and at page (C) of the paper book.

3. It is stated by Learned Counsel for the petitioners that petitioner No.1/school had made a representation to the respondent/CBSE, requesting it to permit the aforesaid eleven students to write their examinations in a school affiliated with the respondent/CBSE in the vicinity of Shivagangai District for the examination to be held in March-2012, but, the said request was turned down by the respondent/CBSE vide letter dated 31.01.2012/01.02.2012, wherein petitioner No.1/school was informed that its application for registration had been rejected by the Board on 29.03.2010 and, therefore, the question of sponsorship of the candidates studying in class X in the petitioner No.1/school did not arise. The petitioner No.1/school was further informed that it ought not to have started classes under the CBSE pattern (class IX/X) without being granted affiliation by the Board.

4. It is admitted by the counsel for the petitioners that till date, petitioner No.1/school has not been granted any affiliation by the respondent/CBSE and that their application for affiliation is pending consideration at the end of the respondent/CBSE. However, without obtaining any affiliation, the petitioners proceeded to take in eleven students in class X to appear in the All India Secondary School Examination-2012. Learned Counsel for the petitioners pleads that the present petition may be treated as a mercy petition and without pressing for the relief in the main writ petition, as a special case, permission may be granted to the eleven students of class X to appear for the All India Secondary School Examination-2012, failing which the said students, who come from an economically and socially weaker section and are residents of a remote rural area of the southern India, would stand to lose their one academic year in the process, and they may not be made to suffer for the fault of the petitioner No.1/school.

5. Ideally, the present petition ought to be rejected as undoubtedly petitioner No.1/school ought not to have taken in any students in class IX and X, knowing very well that it had not been granted affiliation by the respondent/CBSE. It is also pertinent to note that in the year 2010, in similar circumstances, when petitioner No.1/school was not granted any affiliation by the respondent/CBSE, it had approached the respondent/CBSE for the grant of special permission to four students of class X studying in petitioner No.1/school for them to appear in the AISSE-2010. In response to the aforesaid request, as a one time exception, vide letter dated 08/10.12.2009 (Annexure P-2), the respondent/CBSE had accommodated petitioner No.1/school by acceding to its request for special permission for the aforesaid four students to appear in the All India Secondary School Examination-2010 for class X examination.

6. In this backdrop, it is apparent that the petitioner No.1/school was well aware of the consequences of continuing to take in students without having been granted affiliation with respondent/CBSE and despite the same, it persisted with taking in students in Class IX and X and thus, virtually played with their careers. The aforesaid conduct of petitioner No.1/school deserves to be deprecated and the request made by petitioner No.1/school at this eleventh hour to permit the

eleven students of class X to sit for the examinations, which are to commence on 02.03.2012, ought to be turned down. However, having regard to the fragile socio-economic background of the students in question who belong to families of agriculturists and whose parents are not in a financial position to take the burden of sustaining their education for an additional year, which they presently stand to lose, as an exception made one last time in respect of the eleven students studying in Class X in the petitioner No.1/school, it is directed that the names of the aforesaid eleven students shall be forwarded by the petitioner No.1/school forthwith to the Regional Office of the respondent/CBSE at Chennai, alongwith the requisite fee/late fee to be deposited by 29.02.2012. Upon petitioner No.1/school submitting the list of candidates(LOC) to the Regional Office of the respondent/CBSE at Chennai, necessary steps shall be taken by the respondent/CBSE to process the said application in respect of the eleven students, who shall then be accommodated in a nearby school for taking the class X examinations-2012, that are to commence on 02.03.2012.

7. Counsel for the respondent/CBSE states on instructions that the said eleven students can only be accommodated at Kendriya Vidyalaya, Narimedu, Madurai (Centre No.4028), for which purpose, the respondent/CBSE shall have to depute an officer from its head office at Delhi to Narimedu, Madurai alongwith eleven sets of question papers, subject to the condition that petitioner No.1/school shall bear the expenses that shall be incurred by the said officer towards his traveling, boarding and lodging. The aforesaid suggestion is accepted by the counsel for the petitioners.

8. Accordingly, the present petition is disposed of on the following terms and conditions:-

(i) The petitioner No.1/school shall take immediate steps to submit a list of candidates (LOC) containing the names of the eleven students, who shall be permitted to sit for the class X examinations-2012, commencing from 02.03.2012.

(ii) Alongwith the aforesaid LOC to be submitted by petitioner No.1/school at the Regional Office of the respondent/CBSE at Chennai, it shall deposit the late fee/requisite fee with the respondent/CBSE.

(iii) Respondent/CBSE shall process the application of the petitioner No.1/school without losing any time and permit the eleven students to take the class X examination w.e.f. 02.03.2012, at the examination centre suggested by it and recorded in para 7 hereinabove.

(iv) All the eleven students of the petitioner No.1/school shall report at the examination centre at Kendriya Vidyalaya, Narimedu, Madurai (Centre No.4028) on 02.03.2012 and subsequent dates to take their class X examinations.

(v) The expenses of the officer deputed by the respondent/CBSE to travel from Delhi to Madurai on 28.02.2012 along with eleven sets of question papers etc.

shall be initially borne by the respondent/CBSE who shall be reimbursed by petitioner No.1/school immediately upon a bill being raised in that regard by the respondent/CBSE.

(vi) The petitioners shall file an affidavit within two weeks in the present proceeding undertaking inter alia that they shall take immediate steps to relocate the remaining students studying in class IX in the petitioner No.1/school to some other school affiliated with the respondent/CBSE and further, that they shall not take in any further students in class IX and X till the respondent/CBSE grants affiliation to petitioner No.1/school. A copy of the affidavit shall be furnished to the counsel for the respondent/CBSE within one week from the date of filing thereof.

9. The present petition is disposed of alongwith the pending applications while leaving the parties to bear their own costs. It is further directed that this order shall not be treated as a precedent in any other matter, as the same has been passed in the peculiar facts and circumstances of the case.

Dasti to the parties under the signatures of the Private Secretary.