
(2017) 02 DEL CK 0288

In the Delhi High Court

Case No : 6220 of 2015, CM Nos 692 of 2017 & 9145 of 2016

RAJDHANI PUBLIC SCHOOL & ANR

APPELLANT

Vs

DIRECTOR OF EDUCATION & ANR

RESPONDENT

Date of Decision : 13-02-2017

Acts Referred:

Registration Act, 1908, Section 49 - ct of non-registration of documents required to be registered
Delhi School Education Rules, 1973, Rule 51, <a href=13381-Rule

Citation : (2017) 02 DEL CK 0288

Hon'ble Judges : V. Kameswar Rao

Bench : SINGLE BENCH

Advocate : Anjani Kumar Singh, ?Jaspreet Singh Kapur, Peeyoosh Kalra, Shiva Sharma, Sona Babbar

Final Decision : Dismissed

Judgement

1. The present petition has been filed by two petitioners with the following prayers:-

"a. Issue a writ in the nature of certiorari or any other appropriate writ, order or direction quashing the order dated 06.05.2015 of the respondent no.2 rejecting the upgradation to the petitioner.

b. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction directing respondents to grant recognition/up-gradation of the recognition to the petitioner school upto 12th class in the stream of Humanities and Commerce;

c. Allow exemplary costs in favour of the petitioner.

d. Any other order(s) which this Hon"ble Court may deem fit and proper in the facts and circumstances of the present case."

The Facts:-

2. This petition is a third round of litigation, the petitioner having earlier filed two writ

petitions being W.P.(C) No. 6006/2014 and W.P.(C) No. 8354/2014. It is averred by the

petitioners that petitioner No.1 is an unaided School situated in Village Devli, South

District, Delhi and managed by Rajdhani Educational Society and is recognized up to 8th

standard. The School is following Central Board of Secondary Education pattern for

imparting education up to 8th standard. The petitioners on October 12, 2010, applied for

upgradation of the School up to class XIIth in two streams i.e Humanities and Commerce.

It is averred by the petitioners that on March 1, 2011 and August 29, 2011 first and second

inspections were carried out by the respondents. On September 29, 2011, the respondents

issued letter pointing out deficiencies. Finally, on October 11, 2012, the application of the

petitioners for upgradation of the School to Senior Secondary School status was rejected.

Thereafter, the petitioners preferred an appeal before the Lieutenant Governor, who had

dismissed the appeal vide order dated November 6, 2013. The application for review of

order was also rejected on March 12, 2014. The petitioners approached this Court by way

of a writ petition being W.P.(C) No. 6006/2014 challenging the order dated November 6,

2013 passed by the Lieutenant Governor and the order dated October 11, 2012 of the

respondents. The said petition was disposed of on September 9, 2014 whereby liberty was

given to the petitioners to file a representation in accordance with the Circular dated May

28, 2014 with the Directorate of Education within a period of two weeks, which was

directed to be disposed of within six weeks. It may be stated here that vide circular dated

May 28, 2014, the total land area has been prescribed as 2400 sq. meters. It appears that the

inspection was carried out by the respondents on October 30, 2014.

3. It is averred by the petitioners as no response or decision was communicated by the

respondents after inspection, the petitioner filed a Writ Petition(Civil) No. 8354/2014.

During the pendency of the writ petition, it appears on December 24, 2014, the respondents

rejected the request of the petitioners for upgradation for the following reasons:-

- (a) shortage of two classrooms;
- (b) not submitted Lal Dora Certificate;
- (c) not submitted Building Safety Certificate.

4. Pursuant to this order, the W.P.(C) No. 8354/2014 was amended. The W.P.(C) No.

8354/2014 was finally heard and disposed of vide order dated March 27, 2015, the relevant

paras of which are reproduced as under:-

"6. The only objection that remains is with respect to the building safety certificate, which is required to ensure that the school building is structurally safe and not unsafe for the children. Learned counsel for the petitioner has drawn the attention of this Court to a certificate dated 16.12.2014 (annexed at page 320) issued by the Office of the Assistant Engineer-I, Maintenance Department-III, South Delhi Municipal Corporation, which certifies the

building to be safe. The learned counsel for the respondent states that although the said certificate is acceptable, however, in view of the fact that additional rooms have since been constructed, a further certificate with regard to the structure of additional rooms would also be required. 7. In view of the aforesaid, the present petition is disposed of with the following directions:- a. That the respondent- Directorate of Education shall depute the concerned officer to

inspect the school premises on 31.03.2015 at 10.30 a.m. to verify the number of rooms and satisfy the respondent that two additional rooms have since been constructed. In addition, the petitioner shall furnish a building certificate, worded as the certificate dated 16.12.2014 but of the current date. This would satisfy the respondent's requirement with regard to the structural safety of the additional rooms. b. The land in question on which the school is built now falls in Lal Dora land and may require regularization. In this regard, the school shall take the necessary steps to apply for regularization. However, that would not come in the way of the respondent in granting the upgradation for the reasons that the principal building of the school was constructed several years ago. Further, the issue that a sanction of the building plan or a regularized plan was required was never raised by the respondent. 8. In the event the certificate, as indicated above, is provided by the petitioner within a period of one week from today and the respondent is satisfied that additional rooms, as asserted by the petitioner, have been constructed, the respondent shall forthwith issue the recognition of upgradation for the academic session commencing 2015-16 without any further delay." 5. It is pursuant thereto, the impugned order dated May 6, 2015 was passed. The

relevant para of the impugned order dated May 6, 2015 is reproduced as under:-

"AND WHEREAS, the submissions of the school in the Hon'ble High Court regarding built up two classrooms and ground reality as per Inspection report are examined and the following emerges: . that school has misrepresented in the Hon'ble High Court regarding completion of two additional classrooms on 27.03.2015, whereas the same were found to be still under construction on the date of Inspection on 01.04.2015; . The school in its lay out plan submitted in the office of Deputy Director of Education (South) has not shown the pucca structures interposed between the existing school buildings and under construction two class rooms. Further as per Inspection report, these pucca structures interposed between the existing school building and under construction rooms were on the same public passage and there was no direct exclusive passage from the main school building and two under construction class rooms. Now therefore, in view of the facts as detailed above and as the school has failed to follow the provisions of Sub-Rule (xi) of Rule 50 of Delhi School Education Act & Rules, 1973, the request for upgradation upto Senior Secondary level with two streams in r/o Rajdhani Public School, 484 & 485 (Behind B & C Block, Raju Park), Sangam Vihar, New Delhi (Petitioner) cannot be acceded to. This order is being issued in compliance of directions dated 27.03.2015 passed in WP (C) No 8354/2014 & C M No.19349/2014. This issues with the prior approval of Director of Education." 6. When the writ petition was filed, this Court on the first date of hearing July 1, 2015

noted in paras 5 to 10 as under:-

"5. From the records, it appears that the land of the petitioner No.1 School total admeasuring 3580 sq. yards is in three lots admeasuring 1080 sq. yards, 800

sq. yards and 1700 sq. yards and which are at a distance from each other. 6. Earlier, the minimum land requirement for such upgradation sought by the petitioners, was 3570 sq. yards but was declined to the petitioners for the reason of the aforesaid three lots of land of the petitioners being separated by public passage to which others had access. 7. Upon the minimum land requirement being reduced to 2400 sq. yards, the petitioners revived their request and have already been through two earlier rounds of writ petitions in which directions were issued to the respondents to consider. 8. The respondents have again rejected the request of the petitioner reasoning that the two additional classrooms which the petitioners have now constructed are also at a distance, separated by a public passage, from the existing school building. 9. The senior counsel for the petitioners invites attention to the order dated 27th March, 2015 in W.P.(C) No.8354/2014 earlier filed by the petitioners to contend that only the factum of completion of construction of the rooms had remained and no objection of the said two rooms being at a distance survived for rejection of the upgradation sought. 10. I am prima facie unable to agree. It was the representation of the petitioner No.1 School at that time that the deficiency of two classrooms reported, was being met. The role of the respondents was thus not confined merely to see whether the classrooms constructed are in order but also to see whether the classrooms so constructed were conjoint to the existing structure / building."

7. On July 13, 2015, this Court on the submission of the learned Senior Counsel for the

petitioner, issued notice, by noting as under:-

"3. The senior counsel for the petitioners has also drawn attention to Rule 51 of the Delhi School Education Rules, 1973 to show that a play ground can be in the nearby locality. It is further argued that the requirement of 2400 sq. mtrs. for a Senior Secondary School does not specify, as to how much area has to be for the school building and how much for the play ground; thus, the three lots of land of the petitioners? School and of which one alone has the school building and the other is a play ground, meet the requirement. It is further stated that all the requisite classrooms are on one plot of land and the finding in the impugned order that two classrooms are on a different plot of land is factually incorrect." 8. On September 28, 2015, learned Senior Counsel for the petitioner had submitted

before the Court that without prejudice to the rights and contention of the petitioners, the

petitioners are ready to relocate the classrooms from the present location to the second

block where classrooms No.20 and 21 are positioned. It appears that pursuant thereto,

inspection was carried out by the concerned Authorities in that regard. On November 2,

2015, this Court passed the following order:-

"1. Pursuant to last order, the inspection report dated 14.10.2015 has been filed on behalf of the respondents. In the inspection report, the respondents have raised two objections. The first objection raised, is with regard to the location of room no. 20 & 21. While, room no. 20 is located on the ground floor, room no. 21, is located on the first floor and can only be accessed by an

iron stairway. According to the respondents, the width of the iron stairway is 1.5 ft. and, therefore, being narrow, it could cause complications, in case, an emergent situation were to arise. 2. The second, objection raised is with regard to the area of the land in possession of the petitioner no.1 school. The report states that, the petitioner no.1 school claims that it has in its possession a total land area of 3580 sq. yds. This land is spread over three separate parcels of land. The area of each of the three parcels of land is as follows: 1080 sq. yds., 800 sq. yds. And 1700 sq. yds. It is stated by the respondents that the parcel of land measuring 1080 sq. yds. and 800 sq. yds. are connected via a narrow, albeit a common passage, while the third parcel of land which admeasures, 1700 sq. yds., and is to be used as play ground, was not shown to the committee members. 2.1 It is common ground though, that in case the petitioners are able to demonstrate that they have a total land, admeasuring 2400 sq. mtrs., in their possession, they would be entitled to upgradation, as sought, to senior secondary level (i.e. to grade 12). 3. In these circumstances, Mr Vasdev, learned senior counsel for the petitioners says, that if, the respondents' representative(s) were to, once again, visit the subject site and indicate the rectifications which are required to be carried out vis-a-vis the aforementioned rooms and the connecting iron stairway, the petitioners will take requisite steps so that corrective measures are implemented straight way. 4. In so far as the second objection is concerned, Mr Vasdev says that that third parcel of land, which admeasures 1700 sq. yds., can be shown to the respondents' representative(s) without any further hitch. 5. Accordingly, the respondents are directed to send their representative(s) to

the subject site, with prior intimation to the petitioners. The representative(s) will indicate as to the exact specifications which are required to be maintained qua the iron stairway. In case a concrete stairway of prescribed width is to be built, necessary instructions will be issued in that behalf by the respondents. 5.1 In so far as the third parcel of the land is concerned, the same will be shown to the representative(s) of the respondents. 6. The respondents will give a timeframe of four weeks for carrying out the necessary rectifications. Once rectifications are carried out, the petitioners will inform the respondents, who will then send their representative(s) to carry out an inspection to confirm whether the necessary corrective measures have been taken. 6.1 A report with regard to the aforesaid, will be filed with the court before the next date of

hearing. 7. List for directions, on 16.12.2015. 8. Dasti."

9. That pursuant to the order dated November 2, 2015, an affidavit was filed by the

respondents on December 16, 2015 wherein the respondents have annexed an Action Taken

Report dated December 5, 2015. The said Action Taken Report refers to a letter dated

December 5, 2015 whereby the School has been advised to carry out mandatory rectification/changes suggested on the day of the inspection as well as vide letter dated

November 20, 2015. It was also stated that in the ATR, once the suggested rectifications

are carried out, the inspection team be informed in writing so that the inspection is carried

out to confirm whether necessary corrective measures have been taken. It appears that the

respondents decided to carry out the inspection on February 6, 2016 vide their

communication dated January 14, 2016. This prompted the petitioners to file an application

being CM No.4069/2016 before this Court when this Court while considering the said

application on February 4, 2016 was of the view that the inspection of School premises

cannot be denied per se. Suffice to state, that this Court clarified that the inspection is

without prejudice to the rights and contentions of the parties. On the following date of

hearing i.e February 17, 2016 a direction was given to the petitioner No.1 School to allow

the Committee from the Directorate of Education to inspect the plot of 1700 sq. yds

designated as playground on February 19, 2016. The Court adjourned the proceedings to

March 2, 2016, when the learned Counsel for the respondents stated that the team of the

Inspectors appointed by the Directorate of Education was not allowed to inspect the

petitioner's premises. Again March 11, 2016 was fixed as a date by the Court for inspection by the officials of the Directorate of Education. In the meantime, the petitioners

filed, LPA 158/2016 before the Division Bench challenging order dated March 2, 2016.

The said LPA was disposed of on March 11, 2016, noting that the order under the Appeal

directed the premises of the appellant to be inspected on March 11, 2016 at 2 pm and the

learned counsel for the respondents had stated that there is no possibility to carry out the

inspection on that day. Learned Senior Counsel for the petitioners had also stated that no

cause in the appeal survives and therefore, there is no need to adjudicate the appeal on

merits. I may note here that the appeal was disposed of leaving both the parties to urge their

respective contentions in the writ petition.

10. On March 31, 2016, an application being CM No.9145/2016 was filed by the respondents seeking recall of order dated March 2, 2016. This Court noted the averments/allegations made by the respondents in their application and was of the prima

facie view that the allegations disclose a cognizable offence and a direction was given to the

respondents to register an FIR with the concerned Police Station. It was also observed that

till such time police files a report, the writ shall not be heard. Suffice to state, the order

dated March 31, 2016, which was taken in appeal by the petitioners herein in LPA NO.

275/2016, was also dismissed on May 3, 2016. Thereafter, on May 16, 2016 on the

statement made by the learned counsel for the petitioners that they are

agreeable for

inspection of the petitioner's premises with a further request that a Local Commissioner be

appointed, this Court appointed Mr. D.R. Chaudhary an officer of this Court as the Local

Commissioner, who was directed to visit the premises on May 30, 2016 at 11 am. The

inspection was directed to be videographed. Pursuant to the inspection, the Local Commissioner filed his report, the relevant paras of which I reproduce as under:-

"2. In compliance with the aforesaid directions of the Hon'ble Court, I visited Rajdhani Public School, 148 Village Devli, New Delhi - 110062 on 30.05.2016 at 11:00 am. The Committee constituted by the Directorate of Education comprising the following Officers also reached there:

1. Smt. Manju Sharma, DDE, Zone-24; 2. Shri B.M. Mudgal, DDE Zone-23; 3. Shri Rispan Singh, Legal Assistant; and 4. Smt. Raj Kumari, SPE, Zone-24.

In the school office, we found Mr. R.B. Singh, Manager, Mrs. Divya, Headmistress and Mr. Omesh Kumar, Chairman of the Managing Committee present there. During the discussion it was conveyed to the undersigned by D.E. Officials that the main dispute was regarding the 1700 sq. yds. parcel of land earmarked for the playground.

3. The inspection was commenced at 11:30 am. I requested the School Manager to show the land in question. It was brought to our notice by the school management that the 1700 sq. yards land which was earlier arranged by them for playground on lease is not available now as the Lessor is not permitting the inspection of the said piece of land. Mr. R.B. Singh, Manager had also shown us a copy of the written communication from the Lessor informing the school management that they will not allow any further inspection of their land measuring 1700 sq. yds. Hence the said piece of land measuring 1700 sq. yds. was not shown to the inspecting team. The Manager further informed us that under these circumstances, the school management has arranged another piece of land measuring around 5000 sq. yards on lease which would be used as a playground for the school children. Then, he took all the members of the inspection team, in his vehicle, to the new location of the land measuring 5000 sq. yards which was approximately 1 km away from the main school building.

4. On inspecting the piece of land, it was found that after deducting out of the 5000 sq. yards land setbacks like broad passage to the parcel of land etc.,

around 4100 sq. yards rectangular area was available which was proposed to be utilize by them as a playground. The said parcel of land is surrounded by agricultural land on sides. On enquiring as to how the school children would

access the playground situated far away from the main school building, the school management replied that they would use school buses to transport the school children to & fro and that it would take hardly 5 minutes in bringing the children to the playground by the buses. They also showed copies of the documents related to this land taken on lease, including the Lease Deed, GPA and Khatoni, in their favour.

5. They further informed that the aforementioned land documents pertaining to piece of land measuring 5000 sq. yards would be submitted by them to the Directorate of Education.

6. On 13.07.2016, a copy of letter dated 27.06.2016 addressed to Director of Education along with a photocopy set of documents pertaining to the aforesaid land has also been handed over to the undersigned which is annexed herewith as "Annexure-I (Colly)". They have also handed over to the undersigned photographs and CD pertaining to the said inspection which is annexed herewith as "Annexure-2(Colly)". The report is submitted accordingly."

11. It is the submission of the learned counsel for the petitioners that in the order dated

March 27, 2015, the controversy was narrowed down to the aspect of two additional rooms

only and nothing more.

12. The respondents are delaying the process of upgradation by raising new deficiencies

each time they inspect the petitioner's premises. He reiterates that the issue needs to be

looked from the perspective of the order dated March 27, 2015. He also states that the issue

in the present petition is never related to 1700 sq. yds of playground. He by conceding that

1700 sq. yds of land being not available, the petitioners during inspection on May 30, 2016

had showed another land to the Commission measuring 5000 sq. yds. He states that the said

piece of land to be used as a playground is situated 1 km away from the main School

building and the same is permissible under Rule 51 of the Delhi School Education Rules,

1973 which provides that the playground can be in a nearby area. He has drawn

my

attention to a document at page 455, which according to him is a Lease Deed for renting the

land measuring 5000 sq. yds at Village Devli, Tehsil Hauz Khas, Mehrauli for a period of

30 years. I may only state here that the learned Counsel for the petitioner conceded that the

said Lease Deed has not been registered. He also draws my attention to pages 93 to 95 of

the paper book to contend that the petitioner No.2 is in possession of total 1902 sq. yds of

land and if the 5000 sq. yds of land is added then the total land area is more than 2400 sq.

meters.

13. According to him, Rule 51 (1)(i)(b) does not define "nearby area". He states even

under Rule 51(1)(i)(c) where facility of playground is not possible, the School can make

arrangements for gymnastics or any other physical exercise. He would rely on the judgment

of the Madras High Court in the case of Ganga Nair Matriculation School v. The

Inspector of Matriculation W.P.(C) No . 31169/2004 decided on March 20, 2007 and of the

Supreme Court in the case of Al-Karim Educational Trust and another v. State of Bihar

and ors AIR 1996 SC 1469 in support of his contention.

14. On the other hand, Mr. Peeyoosh Kalra, learned counsel for the respondents would

submit that the present petition is nothing but an abuse of the process of law. He states that

the initial requirement of the land was 3580 sq. yds, which was later reduced to 2400 sq.

meters. for School for Senior Secondary level in two streams. He states that the land

projected by the petitioners are 1080 sq. yds, 800 sq yds and 1700 sq. yds.

According to

him, the lands are not contiguous. He states, even the land of 1080 sq. yds and 800 sq. yds

are also not contiguous and are separated by a public passage, which is impassible. He has

drawn my attention to the photographs filed on record to show that the two additional

rooms, which have been built are not on the contiguous piece of land in relation to the main

premises. That apart, it is his submission that as per the report of the Commissioner, the

1700 sq. yds of land not being available, the petitioner does not meet the requirement of

2400 sq. meters. He states, the plea of the petitioners that 5000 sq. yds of land is available

at a distance of 1 km would also not suffice the requirement of the Rules, inasmuch as the

spirit underlying the Rules being that the playground is available in a nearby area, and the

plea that the children shall be taken on bus would cause inconvenience to them, apart from

putting the children to risk and cannot be agreed to.

15. That apart, the plea that in the absence of a playground, the School shall make

arrangement for gymnastics or any other physical exercise in terms of Rule 51 (1) (i)(c) is

concerned, that is only in a case where the School meets the requirement of 2400 sq. meters.

He states that the judgments relied upon by the learned counsel for the petitioners have no

applicability in the facts of this case and needs to be rejected. He states, as the petitioner

No.1 does not meet the requirement, the present petition is without any merit and needs to

be dismissed.

16. Having heard the learned counsel for the parties, insofar as the plea of the learned

counsel for the petitioner that the issue needs to be looked from the perspective of the order

passed by this Court on March 27, 2015 whereby this Court has narrowed down the

controversy is concerned, when the matter was listed on July 1, 2015 this Court had noted

the fact that the land of the petitioner No.1 measuring 3580 sq. yds. is in three lots, which

are at a distance from each other. The Court also observed that the role of the respondents

was thus not confined merely to see whether the classrooms constructed are in order but

also to see whether the classrooms constructed were conjoint to the existing

structure/building. In fact on July 13, 2015, the issue that in terms of Rule 51 of the DSE

Rules, 1973, the playground can be in the nearby locality was also argued, apart from the

issue of class rooms which made this Court to issue notice. Further, I note the petitioners,

through their Counsel on November 2, 2015 had represented to show the third parcel of

land admeasuring 1700 sq. yds. Even this Court on February 17, 2016 directed the

petitioner School to allow the Committee from Directorate of Education to inspect the plot

of 1700 sq. yds. designated as playground. The said order was followed by order dated

March 2, 2016. The said order was subject matter of an intra court appeal. Be that as it

may, vide order dated May 16, 2016, this Court appointed a Local Commissioner for

inspection and the Local Commissioner did inspect the land of 5000 sq. yds. which the

petitioners intend to use as playground and filed his report. The aforesaid would reveal that

the petitioners had never contested the orders passed by this Court from time to time for

ascertaining the aspect whether the petitioner No. 1 is in possession of the required land and

also in accordance with Rule 51 of DSE Rules, 1973. Further, it was during the inspection

by the Local Commissioner, the petitioners represented that the land of 1700 sq. yds, which

was earlier arranged by the petitioners for playground on lease is not available as the lessor

is not permitting the inspection of the said piece of land. The said piece of land was not

shown to the Commissioner. In fact, during inspection, the petitioners arranged for another

piece of land admeasuring 5000 sq. yds. which was also inspected. It is to be seen whether

this land along with other lands, referred above meets the requirement. Hence, the plea of

Mr. Singh that issue is only with regard to two additional rooms is liable to be rejected.

17. In so far as the aspect whether petitioner fulfils the land requirement is concerned,

this Court had noted that the petitioners have offered land in three parcels of 1080 sq. yds.,

800 sq. yds. and 1700 sq. yds., which aspect was noted by this Court on July 1, 2015. Be

that as it may I note the petitioners in their affidavits of rebuttal filed on 27 th January, 2016

have taken a stand that the total land area of the School is 1200 sq. yds. + 800 sq. yds. +

1700 sq. yds., i.e., 3700 sq. yds. which in excess of 2400 sq. meters. Without going into the

issue whether the first parcel of land is 1080 sq. yds. or 1200 sq. yds., proceeding on a

premise the School Management has arranged piece of land admeasuring 5000 sq. yds on

lease, which could be used as a playground for the School children, the Commissioner has

noted that after deducting, out of 5000 sq. yds land setbacks like broad passage to the parcel

of land etc., around 4100 sq. yards rectangular area was available which was proposed to be

utilized by them as a playground. It was also noted that the said land is surrounded by

agricultural land on sides and on enquiry as to how the school children would access the

playground situated far away from the main school building, the school management replied

that they would use school buses to transport the school children to & fro and it would take

hardly five minutes in bringing the children to the playground by the buses. The lease deed,

GPA and Khatoni in their favour have been filed on record. I have seen the Lease Deed.

The Lease Deed as placed on record (page 453) shows that the same has been executed

between one Mr. Pawan Kaushik and the Rajdhani Educational Society as the lessee,

whereby the lessor Pawan Kaushik intend to rent out an area of 5000 sq. yds of land to the

second party i.e Rajdhani Educational Society for a period of 30 years. Suffice to state and

as conceded by the learned counsel for the petitioner that the said Lease Deed is not

registered. Such a document, i.e., an unregistered document would not create an interest in

favour of the lessee Rajdhani Educational Society in view of Section 49 of the Registration

Act, 1908. The said document cannot be read to mean that the School/Society has the land

of 5000 sq. yds. for the purpose of playground. In the absence of which, the requirement of

2400 sq. meters of land has not been met by the petitioners.

18. In view of my above conclusion, the issue as to whether the land has to be contiguous

or can be 1 km away (for playground) as in this case, by interpreting Rule 51 of the DSE

Rules, 1973 need not be gone into.

19. In so far as the issue of two additional rooms is concerned, as noted from order dated

July 13, 2015, it was represented by the petitioners that the finding in the impugned order

that two class rooms are on different plot of land is factually incorrect. The September 28,

2015, order sheet reveals the submission made on behalf of the petitioners to relocate the

class rooms from the present location to the second block where room nos. 20 and 21 are

positioned. Pursuant thereto, an inspection was carried out by the School Authorities. In

the Inspection Report, an objection raised with regard to the location of room nos. 20 and

21 as room no. 20 is located on the second floor whereas room no. 21 is located on the first

floor and can only be accessed by an iron stairway. The case of the respondents is that the

width of the iron stairway is 1.5 feet and therefore being narrow, it can cause complications

in case of emergent situation were to arise. In their response to the affidavits filed by the

respondents on January 27, 2016, petitioners would submit that there are two staircases,

which have access to classroom nos. 20 and 21, an iron staircase and a concrete staircase.

The iron stair case measures 3 feet and not 1.5 feet as alleged by the

respondents in the

inspection report dated October 14, 2015. According to me, this issue also need not be gone

into in view of my finding above on the non-availability of required land of 2400 sq.

meters.

20. In view of my aforesaid discussion, the present petition filed by the petitioner including a direction to grant recognition/upgradation to the petitioner No.1 School up to

XIIth class in the stream of Humanities and Commerce cannot be accepted. The writ

petition is dismissed. No costs.

CM Nos. 692/2017 (for early hearing) & 9145/2016 (for recall of order dated March 02, 2016)

Dismissed as infructuous.