

**(2005) 12 DEL CK 0177**

**In the Delhi High Court**

**Case No :** Writ Petition (C) 20787 and 20788 of 2005

Rajdhani Public Secondary School and Another

APPELLANT

Vs

Central Board of Secondary Education and Others

RESPONDENT

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**Date of Decision :** 13-12-2005

**Acts Referred:**

Constitution of India, 1950 — Article 226, 32

**Citation :** (2005) 12 DEL CK 0177

**Hon'ble Judges :** Vikramajit Sen, J

**Bench :** Single Bench

**Advocate :** Sandeep Sethi and P.S. Bindra, for the Appellant; Amit Bansal and Manisha for the Respondent No. 1 and Saleem Ahmad, for respondents 2 and 3, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Vikramajit Sen, J.—The prayer in this writ petition is that the Respondents be commanded to accept the examination forms of students studying in the Petitioner School for the forthcoming All India Secondary Examination to be held in March, 2006. This can be achieved only if the letter dated 28.9.2005 issued by the CBSE rejecting the Petitioners' request to allow its students to appear in the said Examination and also declining to grant provisional affiliation to the School, is quashed. The writ petition has been filed on 27.10.2005.

2. Prior to the filing of this writ petition some of the concerned students had approached this Court for redress in July, 2005 (W.P. (C) Nos. 11223/2005, 11639/2005 and 11883/2005)). The question that had arisen therein, inter alia, was that those Petitioners had been permitted to Class X despite having failed in the Final Examination for Class IX. Those writ petitions had been dismissed as withdrawn. Thereafter the present petition has been filed by the concerned School. In the impugned Order dated 28.9.2005 the Joint Secretary (AFF), CBSE has noted that the Petitioner School is in possession of less than 1000 square metres of land and that the document supplied to the Board for 171 square yards

has not been duly registered. There was also some controversy of whether these plots of land were adjacent/contiguous to each other so as to constitute a single tract of land. Secondly, mention had been made of the fact that the School had sponsored 12 candidates for the All India Secondary School Examination, 2005 (three of whom had filed the petitions referred to above which were subsequently been withdrawn) despite their having failed in Class IX in the academic session 2003-2004. The prayers made by the Petitioner School were accordingly rejected by the Respondent and they were informed and warned not to run any classes under CBSE in the absence of affiliation.

3. On behalf of the Petitioners it has been contended by Mr. Sandeep Sethi, learned Senior Counsel, that the person who was responsible for sponsoring the candidature of 12 students for the All India Secondary School Examination, 2006, namely, Shri Murari Lal, the erstwhile Vice-Principal, has been removed from the Petitioners' service. I must at once state that the responsibility for this irregularity and illegality cannot be fastened solely on Shri Murari Lal. If the Administration of the Petitioners School is carried out with such recklessness and ineptitude, it does not deserve affiliation. Students are the future of this country and their careers cannot be dealt with in such a lackadaisical manner. I am in no doubt that fixing responsibility solely on Shri Murari Lal is a dishonest attempt to escape the logical consequences of illegal action on the part of the Management of the School. It would not be sanguine to state that had the Petitioner already received affiliation, the sponsoring of failed students would be sufficient reason to withdraw such affiliation. That question of course does not arise here. However, if this is one of the reasons for declining affiliation there would be no justification for setting it aside in the course of exercise of judicial Review under Article 226 of the Constitution. This is for the obvious reason that it does not at all suffer from *Wednesbury* unreasonableness.

4. As has been mentioned above the second reason for declining affiliation was the Petitioner's failure to fulfill the basic mandatory condition of possessing of land admeasuring 1000 square metres or above as laid down in the Affiliation By-laws of the CBSE. It appears that the shortfall is to the extent of approximately 177 square yards. This shortfall is sought to be overcome by the taking on lease of property bearing No. B-11 and B- 16/A-2, area measuring 100 square yards and 71 square yards out of Rect. No. 52, Killa No. 9/2/2, situated in the abadi of Babu Nagar, Delhi-110094. The Rent Deed is dated 13.10.2005 on which date it was submitted for registration. It was obviously not in existence on 28.9.2005 when the impugned Order was passed. On this issue there is no contradiction or illogicality or irregularity in the impugned Order which can be corrected via judicial Review under Article 226 of the Constitution.

5. The grant of recognition to the School from Class I to Class VIII by the Government of NCT of Delhi and upgradation from Middle to Secondary stage will not bind CBSE for granting affiliation. India is plagued with scores of educational institutions, several of whom have no concern for academic standards. It is high

time that only a few Boards should be allowed to operate at the national level, not only in the interest of maintaining academic excellence but also for standardisation of results and maintaining equivalence.

6. It is palpably obvious that the Petitioner School has been on a collision course with the Respondents for some time. This is not a case where the affiliation has been withdrawn mid session thereby orphaning the students academically. The parents of these students have admitted their wards to the School despite it not having obtained affiliation. If the trustees or officials of the School have misrepresented to them that they enjoy affiliation and all concomitants necessary for sponsoring students for the CBSE Examination there is an obvious commission of an illegality for which they are liable for damages as well as for punishment. I need not say any more.

7. In *N.M. Nageshwaramma and Others Vs. State of Andhra Pradesh and Another*, the Apex Court has denounced fiats of the Court directing the Government to permit students to appear for examinations contrary to law and norms under Article 32 or Article 226 of the Constitution; such orders have been seen as encouraging and condoning the establishment of unauthorised institutions. In *Guru Nanak Dev University v. Parminder Kr. Bansal*, JT 1993 (Supp.) S.C. 449 jural sympathy has been seen as subversive of academic discipline; it has been observed that admissions cannot be ordered without regard to the eligibility of candidates. This was also the approach of the Supreme Court in *A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another*, and *State of Maharashtra Vs. Vikas Sahebrao Roundale and others*, . In *Dattatraya Adhyapak Vidyalaya v. State of Maharashtra* the Supreme Court observed in its Judgment dated 19.2.1991 that the exercise of compassion by the Court to relieve students' hardships has resulted in total indiscipline. In *St. John's Teacher Training Institute (for Women), Madurai, Vs. State of Tamil Nadu and others*, etc. etc., , the Court had taken note of the strategy of filing writ applications for directions to recognise educational institutions and allow students to appear in examinations only when the dates of examinations are notified. In *Municipal Corporation, Ludhiana Vs. Commissioner of Patiala Division, Patiala and Another*, the Court observed that -

"where an educational institution embarks upon granting admission without the requisite affiliation and recognition and the students join institution with their eyes wide open as to the lack of legitimacy in the admission, it would be preposterous to direct the University to hold examinations for the benefit of such students." In *CBSE v. P. Sunil Kumar*, (1988) 5 SCC 377 the Court had gone to the extent of cancelling the result of students who had appeared in an examination pursuant to interim orders passed by the High Court, since these students did not fulfill the eligibility criteria. The impugned order far from inviting quashing or censure, is to be commended. We must constantly bear in mind that if our children are nurtured in irregularity and illegality they are not likely to become exemplary citizens."

8. The writ petition is wholly without merit and is dismissed with costs of Rs. 10,000/-.