
(2022) 10 TEL CK 0065

In the Telangana High Court

Case No : Writ Petition Nos.6776 Of 2017, 10202 Of 2019

Ramakrishna Vidyalayam

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 17-10-2022

Acts Referred:

Citation : (2022) 10 TEL CK 0065

Hon'ble Judges : K.Lakshman, J

Bench : Single Bench

Advocate : C Damodar Reddy

Final Decision : Dismissed

Judgement

1. Heard Mr. K. Vasanth Rao, learned counsel for petitioner in W.P. No.10202 of 2019 and Ms. Neelima, learned counsel representing Mr. C. Damodar Reddy, learned counsel for petitioner in W.P. No.6776 of 2017, and Mr. D.L. Pandu, learned Standing Counsel appearing for the Telangana Board of Intermediate Education and learned Government Pleader for Higher Education appearing for the respondents.

2. W.P. No.6776 of 2017 is filed by Sri Ramakrishna Vidyalayam (for short 'the School'), represented by its Correspondent, Mr. T. Muralikrishna, to declare the action of respondent No.4 in issuing proceedings in Rc.No.4657/B3-3/C4/RR/2011, dated 10.01.2014 rejecting the applications of the petitioner for according renewal of recognition to Classes I to V (TM) for the Academic Year 1999-2000 and for grant of permission for starting Classes VI to X during the Academic Year 2002-03 as illegal, and for a consequential direction to grant the aforesaid relief.

3. W.P. No.10202 of 2019 is filed by Mr. Thirugamalla Satvik and Ms. Thirugamalla Himamshuka, minor son and daughter of Mr. T. Muralikrishna, Correspondent of the aforesaid School (who are hereinafter referred to 'the Students') to declare the action of respondent Nos.1 to 3 therein in not

permitting them to write Intermediate 2019 First Year Examination as illegal and for a consequential direction to permit them to appear for Supplementary Examination of Intermediate First Year 2019 commencing from 25.05.2019 onwards.

4. The lis involved in both these writ petitions and the parties are common and, therefore, they were heard together and are being disposed of by way of a common order.

5. CASE OF THE SCHOOL AND STUDENTS:

i) It is relevant to note that the School filed the aforesaid writ petition No.6776 of 2017 challenging the proceedings dated 10.01.2014 issued by respondent No.4 rejecting the request made by the School seeking permission to accord renewal of recognition to run Classes I to V and to open Classes VI to X. Vide the said order, respondent No.4 had instructed the School to submit fresh proposals as per the checklist communicated to the Correspondent on 05.10.2013 by following the Government Orders as on date while fulfilling the required norms since as on date, the School failed to submit the proposals as per norms, instead it has given representation through letter pads only.

ii) According to the School, it was established in 1991 initially to run Classes from I to V by obtaining necessary orders from respondent No.4 dated 03.09.1993. Vide the aforesaid proceedings, respondent No.4 had accorded permission to the School to run the Classes I to V [Telugu Medium (T/M)] during the Academic Year 1993-94. Vide proceedings, dated 19.02.1995, respondent No.4 had accorded renewal of the School for the Academic Years 1994-95 to 1998-99.

iii) The School had submitted application on 10.10.2001 seeking renewal of recognition in respect of Classes I to V for the Academic Year 1999-00 onwards and also sought permission to start Classes VI to X with an intention to upgrade the School. Despite receiving and acknowledging the said application, respondent No.4 did not act upon the same.

iv) The School had also submitted several representations to respondents including respondent No.1, who in turn called for specific remarks and opinion from respondent No.3 i.e., the Regional Joint Director of School Education, Warangal, along with report of respondent No.4, vide its letter dated 19.10.2001. Pursuant to the same, respondent No.3 vide letter dated 18.02.2022 called for specific remarks from respondent No.4. Even then, there is no response from the respondents and they neither rejected the application submitted by the School, nor accorded renewal and permission as sought by the School in its application dated 10.10.2001.

v) Therefore, the School had filed a writ petition vide W.P. No.3476 of 2003 seeking a direction to the respondents to consider the said application dated 10.10.2001. Vide order dated 08.12.2003, this Court disposed of the said writ

petition directing the respondents therein, more particularly, Competent Authority, respondent No.3 therein i.e., District Educational Officer, Khammam, to consider the request of the School for grant of permission for running Classes VI to X, and pass appropriate orders within a period of three (03) weeks from the date of receipt of copy of the said order. This Court also made it clear that it is open to the School to file an additional representation bringing to the notice of the Competent Authority regarding fulfilling of the required norms in support of the relief for recognition of Classes VI to X. Despite the said order, respondent No.4 failed to comply with the said order and did not pass any order on the application dated 10.10.2001 submitted by the School. The School had submitted several representations.

vi) It is relevant to note that the Correspondent of the School in paragraph No.5 of the writ affidavit specifically stated as follows:

"....I submit that expecting permission from the District Educational Officer, Khammam, the petitioner started classes VI to X and admitted students for the said classes. I submit that several batches of class X students have completed their studies and appeared for the SSC Public Examinations through different schools and by way of Private Candidates. I submit that the District Educational Officer, Khammam has slept over the applications submitted by the petitioner for renewal of recognition for classes I to V and permission for classes VI to X since more than 15 years."

vii) It is further contended by the School that it has made representations to several authorities. As per the instructions of respondent No.4, it has submitted another set of application for grant of permission for up-gradation of existing school in Form No.1 on 31.10.2013. Despite receiving the same, respondent No.4 did not act upon it.

viii) In view of the formation of New Districts, Yellandu Town is forming part of Bhadradri - Kothagudem District. On regular persuasion, respondent No.4 vide proceedings dated 10.01.2014, informed the School that the request of the petitioner for renewal of Classes I to V and to accord permission to start Classes VI to X is not feasible and instruct the School to submit fresh proposals as per the checklist communicated to the petitioner on 05.10.2013. The said proceedings dated 10.01.2014 is in violation of the Rules framed in G.O.Ms.No.1 (Education), dated 01.01.1994 and also in violation of the order passed by this Court in W.P.No.3476 of 2003.

ix) The School has been running Classes VI to X since 2001 onwards, and since respondent No.4 has issued impugned proceedings informing that the said proposals of the School cannot be considered and, therefore, the School had submitted representations dated 21.10.2016 and 06.01.2017 requesting respondent No.1 for relaxation of the said G.O.Ms.No.1 for recognition of the School for grant of permission for Classes VI to X since 2001 onwards. Vide memo dated 20.01.2017, respondent No.1 requested respondent No.2 to take

necessary action in the matter. Respondent No.2 did not consider the same.

x) It is further contended that the School had submitted the nominal rolls of the SSC students, namely Mr. T. Sathvik and Ms. T. Himamshuka by paying necessary fee and also the application for condonation of age of Ms. T. Himamshuka. Respondent No.3 vide proceedings dated 28.01.2017 returned the nominal rolls for want of recognition proceedings and also issued proceedings dated 28.01.2017 returning the proposals with regard to the relaxation of age of Ms. T. Himamshuka on the ground that the School had not submitted the said proposals through a recognised school. Thus, the entire action of the respondents in not granting renewal in respect of Classes I to V and not according permission to start Classes VI to X and also returning the Nominal Rolls of the students and not relaxing the age of Ms. T. Himamshuka as illegal.

xi) The Students have filed the aforesaid writ petition vide W.P.No.10202 of 2019 contending that they have studied X Class in the subject School. The School has also filed W.P. No.6776 of 2017 seeking renewal and permission. The School had filed I.A. No.2 of 2018 in W.P. No.6776 of 2017 to allow the students to write SSC Examinations pending disposal of the writ petition. The said IA was allowed on 12.03.2018. Therefore, by virtue of the said interim order, the Students have appeared in SSC Examination in the year 2018. Results were not declared. Therefore, the School had filed I.A. Nos.5 and 6 of 2018 in W.P. No.6776 of 2017 to implead the students and to declare the results. The School had also filed I.A. No.4 of 2018 in the said writ petition to declare the results of the said students. Vide order dated 01.02.2019, this Court had allowed I.A. Nos.3, 4 and 5 of 2018 in W.P. No.6776 of 2017. Aggrieved by the said order, the Department of School Education had filed appeal vide W.A. No.147 of 2019, which was disposed of by an order dated 28.02.2019.

xii) The Students have further contended that they have joined in respondent No.4 College i.e., Saahithi Junior College, Basthi Yellandu, Bhadradri - Kothagudem District in 2018 to pursue their Intermediate Course (MPC). They have also paid necessary fee and examination fee in respect of First Year Intermediate. The Secretary of Board of Intermediate and Commissioner of Intermediate Education, respondent Nos.2 and 3 in W.P. No.10202 of 2019 had not issued Hall-tickets and, therefore, the School had filed I.A. Nos.3, 4 and 5 of 2018 in I.A. No.2 of 2018 in W.P. No.6776 of 2017. By virtue of the interim orders granted by this Court dated 01.02.2019, results were declared.

xiii) It is relevant to note that the School had filed an Interlocutory Application vide I.A. No.1 of 2017 in W.P. No.6776 of 2017 seeking a direction to the respondents to receive the Nominal Rolls of the Students and permit them to appear for the SSC Public Examinations scheduled in March, 2017. The School had also filed I.A. No.1 of 2018 to implead the Director, Government Examinations, Telangana State, Hyderabad, as respondent No.5. The same was allowed on 12.03.2018. The School had filed I.A. No.2 of 2018 to permit the Students to appear for SSC Public Examinations scheduled in the month of

March, 2018 by receiving the Nominal Rolls. I.A. No.4 of 2018 was filed to declare/announce the results of SSC Public Examinations of the Students held in the month of March, 2018. I.A. No.5 of 2018 was filed to direct respondent Nos.2 to 5 to release the SSC Public Examination results of the students. I.A. No.6 of 2018 was filed by the Students to implead themselves as the proposed respondent Nos.6 and 7 in W.P. No.6776 of 2017 and also in I.A. No. 2 of 2018. I.A. No.3 of 2018 is filed by respondent Nos.1 to 5 to vacate the interim order granted on 12.03.2018 in I. A. No.2 of 2018 in W P No 6776 of 2017 along with counter.

xiv) On the representation submitted by the Students, vide proceedings, dated 28.03.2019, the Government had informed that the Students have passed examinations and qualified to appear and continue their further studies. Examinations for the First and Second Years for 2019 were conducted on 25.02.2019 to 13.03.2019, and the Students were denied hall tickets. In view of the aforesaid memo, dated 28.03.2019, the results of Intermediate First and Second Year were released on 15.04.2019. The Students had lost the opportunity due to the illegal action of the respondents. It is further contended by the Students that they are legally entitled to appear for supplementary First Year examinations to be held on 16.05.2019. They were under the apprehension that the respondents may not issue hall tickets to them. Therefore, they have filed the aforesaid W.P. No.10202 of 2019 seeking a direction to the respondents to permit the Students to appear for the Supplementary Examination of Intermediate First Year 2019 commencing from 25.05.2019 onwards.

xv) The Students have filed I.A. No.1 of 2019 seeking a direction to respondent Nos.1 to 3 to issue examination hall ticket to them so as to enable them to write the Supplementary Examination of Intermediate First Year - 2019 commencing from 25.05.2019 onwards and treat them as regular candidates. The Students have also filed I.A. No.1 of 2020 seeking a direction to respondent Nos.2 and 3 to issue the examination hall ticket for the Second Year Intermediate Examination Scheduled on 04.03.2020 (Main Exam) and 15.02.2020 (4th Batch Practical Exam) to the Students and to declare the First Year Intermediate Results of the Students.

6. CONTENTIONS OF THE RESPONDENTS:

Respondent No.4 had filed counter affidavit in W.P. No.6776 of 2017 contending that:

a) Permission was granted to the School to start Classes from I to V (T/M) for the Academic Year 1998-99 vide proceedings dated 19.02.1995;

b) The School had submitted renewal proposals dated 18.08.2010 and the same were rejected by respondent No.4 vide proceedings dated 18.08.2010 for want of Challanas and feasibility report of the Department. However, the School was informed to submit fresh proposals to the Competent Authority in terms of G.O.Ms.No.1, dated 01.01.1994 and G.O.Ms.No.361, dated 30.06.2010;

- c) On 27.04.2012, the School had made an application to respondent No.4 for grant of renewal in respect of Classes I to V (T/M) and opening permission for Classes VI to X;
- d) Vide proceedings dated 13.06.2012, instructions were given to the Deputy Educational Officer, Khammam and the Mandal Educational Officer, Yellandu for want of feasible report;
- e) Accordingly, the said Authorities had conducted inspection and found that the School has insufficient infrastructure facilities and other amenities. The School has 14 semi pucca tiled and asbestos sheet rooms, out of 14-16 rooms roofed with sheets and 8 rooms roofed with tiles out of 8 rooms, 3 rooms completely damaged and not for using and remaining 5 rooms using for class and 2 for office, 4 for residential purpose. The toilet facilities and drinking water facilities are not available;
- f) The School had not submitted any proposals for renewal, and due to non-submission of the renewal proposals for Class I to V (T/M) and for opening permission for Classes VI to X within the stipulated time after renewal and recognition, respondent No.4 had rejected the appeal vide proceedings dated 10.01.2014 in terms of G.O.Ms.No.1, dated 01.01.1994. However, the School was advised to submit fresh proposals for the academic year 2014-15, but it failed to submit fresh proposals within the stipulated time;
- g) In obedience of the orders passed by this Court, respondent No.2 had permitted the SSC Students of the School to appear for SSC examinations as private candidates for the year 2002-03 from any Government / Recognised Schools subject to the outcome of the writ petition;
- h) Despite giving an opportunity vide proceedings dated 24.09.2013 with an intention to give one more chance, the School failed to submit proposals for the academic year 2014-15 in terms of the applicable rules within the stipulated time. Therefore, the proposals submitted by the School were rejected by respondent No.4 vide proceedings dated 10.01.2014;
- i) It is further contended that the School instead of submitting fresh proposals in terms of the Rules/Regulations submitted representations years together. As per orders dated 08.12.2003 passed by this Court, the SSC students of the School were allowed to right public examinations through a Government recognised schools during the year 2002-03 only. The School failed to fulfill the conditions laid down in G.O.Ms.No.1, dated 01.01.1994;
- j) The School had submitted Nominal Rolls of the Students (children of the Correspondent of the School) stating that they are the Students of the Schools;
- k) Instructions were issued to Mandal Educational Officer, Yellandu vide proceedings dated 29.12.2017 to close down the School and file a criminal case against the Management of the School;

l) Vide proceedings dated 08.12.2018, the Mandal Educational Officer, Yellandu had informed respondent No.4 that the Correspondent himself agreed to close his Institution voluntarily and, therefore, he has not filed criminal case as directed. Instead of closing the School, the Correspondent approached the District Educational Officer along with the Students for grant of permission to allow them to the SSC Examination March, 2018. As per the Report of MEO, Yellandu, dated 24.02.2018, a criminal case was also filed on behalf of Department against the Management of the School on the allegation that it is running Institution without department permission;

m) The School is not having any recognition hence, the Students are not entitled to write SSC Examinations. The Students, who regularly studied in recognized School and attended all the Formative / Summative Assessment (FA/SAs) shall only be eligible for appearing SSC Public Examinations as per Paragraph No.3 (a) of G.O.Ms.No.2, dated 20.08.2014;

n) The Government had issued G.O.Ms.No.17, dated 14.05.2014 for implementation of 'Continuous and Comprehensive Evaluation (CCE) for examination reforms in the State. Accordingly, the average of four Formative Assessments (FAs) are to be accounted for 20% of marks in Public Examinations under each subject as mentioned on page 3 of the said Government Orders. The School failed to submit the average of four Formative Assessments of the Students. The School did not maintain the Internal marks as per the procedure. The average of FAs/SA and subject wise average of internal marks are to be recorded separately. The students did not attend the school regularly and not appeared for the internal exams, conducted by the school and hence they are not at all bona fide students of the school;

o) The students are not regular students and, therefore, they were not issued hall tickets. The Students are not eligible to appear SSC Public Examinations since they did not have required eligibility criteria as referred to in the aforesaid G.O.Ms.No.17;

p) The Correspondent of the School had violated the Rules and sent the Manuscript Nominal Rolls along with Fee Challans. Since the Students have not fulfilled the eligibility criteria as per the report of respondent No.4, the Correspondent of the School is liable for punishment for violation the Education Act, 1982 and subsequent Government Orders issued.

With the aforesaid submissions, respondent No.4 sought to dismiss the aforesaid writ petitions.

7. ANALYSIS AND FINDING OF THE COURT:

i) Vide G.O.Ms.No.1 of Education (P.S.2), dated 01.01.1994, the Government had framed Rules called the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Management) Rules, 1993 (hereinafter recalled as 'the Rules'). After formation of Telangana,

respondent No.1, had adopted the said Rules in terms of the provisions of the A.P. Re-organization Act, 2014. Certain Rules are relevant to decide the present writ petitions and the same are extracted below:

"1. Competent Authorities:

For the purpose of these rules, the following shall be the competent authority.

Category of Schools

Competent Authority

(1)

(2)

(1)

(a) Pre-Primary, Primary and Upper Primary Schools

(b) Oriental Schools, Hindi Patasalas, Hindi Vidyalayas, Sanskrit Patasalas and Special Schools.

District Educational Officer

(2) Secondary Schools.

Regional Joint Director of School Education

4. Criteria for Establishment of Schools:

(1) Permission for establishment of new school or up gradation of existing school, may be accorded keeping in view of the educational needs of the localities taking into consideration the population of the school going children in the locality.

Explanation: For the purpose of this rule, the locality shall be as follows.

(i) For pre-primary/primary schools, the village or an area having population of 200 and above and a radius of 1 K.M. from the proposed location.

(ii) For Upper-Primary School, the village or an area having population of 200 above and a radius of 2 K.Ms from such village / habitation. In Urban areas, it shall be 2 K.Ms. from the proposed location.

(iii) For High School, the village or an area having population of 200 above and a radius of 5 K.Ms from such village /area. In Urban areas, it shall be 5 K.Ms. from the proposed location.

(2) In respect of application from minority educational institutional, the same minority educational institutional the same shall be considered from the view point of minorities and not with standing the lack of need on a general basis.

"5: Requirements for Establishing of a New School or Up-gradation of the Existing School:-

Every educational agency desirous of opening a school or upgrading the existing school shall -

(1) deposit by way of national saving certificate or Kisan Vikas Patra and pledge with the District Educational Officer concerned towards endowment fund as follows:-

(i) Pre-primary School, Primary School, Upper Primary School, Oriental School, Hindi Patasalas, Sanskrit Patasalas, Hindi Vidyalayas, Special Schools .. Rs.25,000/-

(i) Secondary Schools .. Rs.50,000/-

This Endowment Fund may be utilized after obtaining prior permission of the competent authority for the purpose of purchase of furniture, material and equipment required for the school;

(2) have a provision of adequate accommodation for the smooth conduct of classes. This shall be approximately 6-8 Sq.ft. per pupil, and the area shall be calculated section wise;

(3) have adequate accommodation for staff in respect of upper primary schools and high schools;

(4) have adequate accommodation for laboratory, library and Computer room in respect of high schools;

(5) have separate and adequate sanitary facilities, for students and staff and for men and women;

(6) provide adequate safe drinking water facilities to the students and staff

(7) (i) The Primary/Upper Primary/Secondary Schools in rural areas /Urban areas (Municipal Corporation and Municipal limits) shall have a play ground facility of 2000 Sq. m. and 1000 Sq. m respectively annexed to the school.

(ii) The schools proposed to be established in urban areas, where the play area mentioned in clause (i) is not available in the premises, shall provide play area annexure to the school as follows:

School Enrolment range

Primary school

Upper primary & Secondary schools

Provide Minimum open space

for play area

Provide Minimum open space

for play area

Upto 200

500 sq,mts

700 sq.mts

201?300

600 sq,mts

800 sq.mts

301?400

800 sq.mts

1000 sqmts

401?500

1000 sq,mts

1200 sq.mts.

501?600

1200 sq.mts

1400 sq,mts

601?700

1400 sq,mts

1600 sq,mts

701?800

1600 sq,mts

1800 sq,mts

801?900

1800 Sq.mts

2000 sq.mts

901?1000

2000 sq.mts

2200 sq.mts

Indoor sports halls - area as mentioned below:

PrimarySchool

Multi GYM (withmats)

6 meters x 15meters

90 sq . m

Upper

a) Multi

6m x 15 m

90 Sq. m

Primary / Secondary Schools

GYM

ShuttleCourts Aerobics /Yoga

13.5 m x 6.1 m x

2 nos 6 m x 15m

Total

165 Sq. m

90 Sq. m

345 Sq.m

Rounded to350 Sq.m

iii) In Municipal Corporation Cities where the cost of land is very high and providing outdoor play area as specified above is not practicable, the school authorities shall, as an alternative, make the following minimum arrangements:

a.) Provide tie up facility for the school children to play in a nearby municipal ground/park under supervision of Teachers;

OR

b) Tie up with another nearby school or any other institution (that has open playground) for their school children to play in the other school/ institution play ground, under supervision of Teachers;

OR

c). Provide reasonable/ adequate indoor space to play indoor games including shuttle-Badminton, table tennis, carroms, etc, which shall be adequate for at least two sections' children (i.e.80).

(7) provide grills to the balconies in case of high rise buildings;

(8) provide suggestion boxes in prominent places in the school premises;

(9) compulsorily provide fire extinguishers and fire fighting equipment as

prescribed in the National Building Code of India part IV fire Protection, 1997 and approved by Fire Service Department of the State;

(10) maintain first aid kits in sufficient numbers in the school premises;

(11) follow the rules and regulations prescribed in Cir. Memo. No.21748/D1/97, dt.16 -2-1998 and other orders of Transport Authority regarding parking of school vehicles /maintenance of vehicles and ensure safety of children, and shall obtain fitness of the school vehicles from the Transport Authorities as prescribed by the Government from time to time;

(12) the cost of providing zebra crossings at the roads crossing near the schools, which are located in Municipal Corporation/Towns shall be met by the School Managements;

(13) have adequate personnel to guide the movement of the children to ensure road safety and transportation;

(14) produce sanitary certificate from the authorities concerned;

(15) produce structural soundness certificate of the school building/ premises and produce occupancy certificate from the authorities concerned.

(16) school or up gradation of existing school shall produce No Objection Certificate from the Police Department (traffic) and as well as concerned Municipal Corporation or the Municipality in respect of all Municipalities / Municipal Corporation Areas. In respect of villages the no objection certificate shall be obtained from the local Gram Panchayat and no objection certificate from Police is not necessary.

(a)

All the school buildings that have more than one floor (i.e. more than ground floor), shall immediately confirm to the standards of National Building Code for Educational Institutions, and Indian Standards Code IS:8827.1978 in respect of the following items:

(i) Corridors;

(ii) Staircases, their width and rise, and their number per given area of floor space;

(iii) Parapets;

(iv) Exits, their number and specifications;

(v) Ramps;

(vi) Circulation Areas;

(vii) Fire Protection norms.

(b)

All open corridors (with only one set of classrooms on one side, and the other side being open) shall be of a minimum of 2.0 meters clear width, and also comply with other stipulations of the building codes as stated above

(c)

No open corridors or staircases in any school shall be constructed on a cantilever design; all open corridors and staircases shall be constructed with supporting RCC columns on all sides, from ground floor level upwards;

(d)

All parapet walls of open corridors (including those on the corridors and staircases) shall be of RCC / RCM fascia construction (3 inches thick) and be of a minimum height of

1.2 meters (4 feet), with vertical reinforcement steel bars from the slab being taken in extension into the parapet, and with

horizontal reinforcement steel bars being adequately placed, and linked to the RCC columns to either side

(e)

All closed corridors (with rows of classes being placed on either side of the corridor) shall be of a minimum of 2.5 meters width.

(f)

All staircases shall be of a minimum of 1.5 meters flight-width; and each stair's rise and tread shall be 15 cm and 30 cm respectively; there shall be a landing after every 12 steps in the staircase;

(g)

There shall be one set of staircases for every 30 meters length (or part thereof) of corridor; (e.g., two staircases for more than 30 and up to 60 meters length of corridor; three staircases for more than 60 and up to 90 meters length of corridor;

(h)

There shall be no exit doors to any rooms that open directly to the stairs;

(i)

No High-tension electricity lines shall pass within the distance as mentioned in the Code as described above; and shall be at least 2.0 meters away from any side of the school; and no such

high-tension lines shall pass over the school buildings;

(j)

All buildings with more than ground floor, shall satisfy fire- safety norms, and obtain certificate from the Fire department

thereof.

(17) any Educational agency intending to seek permission for opening of new school or up gradation of existing school shall produce No Objection Certificate from the Police Department (traffic) and as well as concerned Municipal Corporation or the Municipality in respect of all Municipalities / Municipal Corporation Areas. In respect of villages the no objection certificate shall be obtained from the local Gram Panchayat and no objection certificate from Police is not necessary

6. Application for permission for Establishment of New Schools or Up-gradation of Existing Schools.

(1) The application seeking permission for establishment of a new school or up gradation of the existing school shall be submitted to the competent authority on or before the 31st October of the proceeding academic year, in triplicate, in form I. Provided that the said period may be extended with late fee as prescribed as follows:

Sl. No

.

Date of submission of application

Late Fee

1

Before 30th November of preceding academic year

Rs.10,000/-

2

Before 31st December of preceding academic year

Rs.20,000/

3

Before 31st January of preceding academic year

Rs.30,000/

4

Before 28/29th February of preceding academic year

Rs.40,000/

5

Before 31st March of preceding academic year

Rs.50,000/

6

Before 30th April of preceding academic year

Rs.60,000/

(2) Every application shall be accompanied by the following documents.

(a) A copy of the constitution and byelaws of the educational agency registered with the respective registration authorities together with the list of office bearers.

(b) Evidence in support of payment of the following application fee to the concerned Head of account.

Category of School

Application fee

(i) Pre-Primary, primary Schools And Upper primary Schools Oriental Schools (all classes In all languages) Hindi patasalas (all Classes) Hindi Vidyalayas (all Classes) Sanskrit patasalas, Special School.

Rs.1,000/-

(ii) Secondary Schools (High Schools).

Rs.2,000/-

(c) Deposit by way of National Savings Certificate or Kishan Vikas Patras and pledge with the District Education Officer concerned towards Endowment funds prescribed in rule 5

(1).

(d) A sketch plan of the site indicating the proposed location of the schools.

(e) A plan of the building to evidence that the requirements indicated in rule 5 are satisfied.

(f) Evidence of ownership of the land and building or lease of land or building as the case may be.

7. Scrutiny and Grant of Permission:

(1) On receipt of an application the competent authority shall cause such verification of the proposal as is necessary and shall communicate the decision there of by the 31st January. In case of refusal of permission the order shall contain reasons.

(2) The grant of permission shall be in Form II.

8. Validity of permission:

(1) Permission granted or deemed to have been granted under rule 7 by the competent authority is valid only up to the end of July of every year. It shall be incumbent upon the educational agency to apply, in the manner prescribed under these rules for recognition. Failure to do so will result in the permission being automatically lapsed. The burden of proof of having applied for recognition shall lie with the educational agency.

(2) Permission for schools other than Secondary Schools shall be valid for all the Classes. In respect of Secondary Schools, however, the permission granted shall be only up to class VIII. The educational agency shall be permitted to open classes IX and X only after obtaining due recognition and only from second and third year respectively after the commencement of class VIII. For example if class VIII is commenced in the academic year 1994-95, the class IX can be commenced in the next year and class X in the year 1996-97.

Provided that the Government may accord permission to an educational institution for opening of classes I to X or VIII to X at a time.

Grant of permission does not confer any right of recognition to the educational institutional.

9. Recognition:

(1) Application for recognition in Form III shall be submitted by the educational agency to the competent authority before the 31st July of the year in which the permission has been granted or deemed to have been granted under rule 7.

(2) The application among other things shall be accompanied by.

(a) Documentary evidence regarding the purchase of library books, laboratory equipment sports material, furniture etc.

(b) Evidence of appointment of qualified staff as per staff pattern prescribed by competent authority from time to time.

(c) Evidence of providing sufficient accommodation as prescribed in rule 5.

(3) On receipt of application the competent authority shall make or cause verification as is necessary and shall communicate a decision within three months. In case of refusal the order shall indicate the reasons.

(4) Grant of recognition shall be in Form – IV.

(5) Recognition shall be valid for period of ten academic years. The educational agency shall, before expiry of recognition seek renewal of recognition. However by the end of April every year, the educational agency shall file an affidavit to the effect that 'there is no deviation or violation of norms/rules prescribed by the Government from time to time'

(6) The renewal of recognition shall be guided by the same principles as are applicable to grant of original recognition. The fee for the renewal shall be Rs.5,000/- in respect of Secondary Schools and Rs.2,500/- in respect of all other schools.

10. XXXXX

11. Withdrawal of permission and /or Recognition.

Permission and/or Recognition, granted under these rules is liable for withdrawal by the competent authority for violation of these rules.

Provided that the educational agency shall be given an opportunity of making representation on the proposed action by competent authority.

12. XXXXX

13. XXXXX

14. Admission of children to the schools:

(1) No school shall admit child to Class-I unless he/she has completed 5 years of age on the first day of academic year as defined in Section 16 of the Act. Correspondingly, children shall not be admitted into any higher classes unless they have completed 4 + n years of age as on the first day of the Academic year 'n' being the class to which admission is sought;

(2) No school shall admit a child directly into 6th class unless he/she has:-

(a) Successfully completed V class from a recognized school; or

(b) Successfully completed phase-I of Non-Formal Education; or

(c) Successfully completed Class V or equivalent through openschool system; or

(d) Has passed 6th class entrance examination conducted by the District Educational Officer.

(3) No school shall admit child into VIII class unless a child has;

(a) Successfully completed VII class from a recognized school conducted by the District Educational Officer; or

(b) Completed successfully phase-II of Non-Formal Education; or

(c) Successfully completed VII class through open school system.

(4) No school shall admit child into class IX and X class unless a child has:

(a) Successfully completed class 8th and 9th respectively from a recognized school; or

(b) Has successfully passed common examination conducted for VIII and IX Classes respectively by the District Educational Officer.

15. XXXXX

16. XXXXX

17. XXXXX

18. XXXXX

19. XXXXX

20. Submission of Annual Administration Report by the Educational Agency:

The Educational agency shall submit the annual administration report in the prescribed proforma to the competent authority for every financial year by the 30th September at the latest. Such report shall be supported by the audited statement of accounts of the school duly audited by Chartered Accountant. Separate accounts shall be maintained for each school.

Similarly the educational agency, which is running more than one school shall also submit such returns within the stipulated time to the competent authority.

21. Powers to Relax Rules:

The Government may relax any of the provisions in these rules involving any undue hardship to any educational agency or in public interest."

ii) Vide G.O.No.41 of Education (SE.PS.I) Department, dated 11.05.2006, the Government had issued certain amendments to the aforesaid Rules, and they are extracted below.

"GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

School Education Department Certain amendments to Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control and of School under private managements) Rules, 1993-Orders - Issued.

EDUCATION (SP.PS.1) DEPARTMENT

G.O.No.41, Education (SE.Ps.1) Department, dated: 11-5-2006.

ORDER:

The following notification shall be published in the Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred by section 99 read with section 20 of Andhra Pradesh education Act. 1982 (Andhra Pradesh Act.No.1 of 1982) the Governor of Andhra Pradesh hereby makes the following amendments to the Andhra Pradesh

Educational Institutions (Establishment, Recognition, Administration and Control of school under private managements) Rules, 1993 issued in G.O.Ms.No.1, Education (PS.2) Department, dated: 1-1-1994 as subsequently amended.

AMENDMENTS

For rule 5 of the said rules the following rule shall be substituted, namely.

"5: Requirements for Establishment of a New Schools or Up-gradation of the Existing School:

Every educational agency desirous of opening a school or up gradation the existing school shall.

(1) Deposit by way of national saving certificate or Kisan Vikas Patra and pledge with the District Educational Officer concerned towards endowment fund as follows:

(1) Pre-Primary School, Primary School, Upper Primary School, Oriental School, Hindi Patasalas, Sanskrit Patasalas, Hindi Vidyalayas, Special Schools Rs.25,000/-

(1) Secondary Schools Rs.50,000/

This Endowment Fund may be utilized after obtaining prior permission of the competent authority for the purpose of purchase of furniture, material and equipment required for the school.

(2) Have a provision of adequate accommodation for the smooth conduct of Classes. This shall be approximately 6-8 Sq.ft.per Pupil, and the area shall be calculated section wise.

(3) Have adequate accommodation for staff in respect of upper Primary schools and high schools.

(4) Have adequate accommodation for laboratory, library and Computer room in respect of High Schools.

(5) Have separate and adequate sanitary facilities, for students and staff and for men and women

(6) Provide adequate safe drinking water facilities to the students and staff.

(7) Have play ground facilities annexed to the school. This shall be a minimum of 1600 Sq.m. in respect of the Municipal Corporation limits and Municipality limits, 2000 Sqm. in Non-Municipal and Non-Municipal Corporation Areas

(8) Provide grills to the balconies in case of high rise buildings

(9) Provide suggestion boxes in prominent places in the school premises.

(10) Compulsorily provide fire extinguishers and fire fighting equipment as prescribed in the National Building Code of India part IV fire protection, 1997 and approved by Fire Service Department of the State

- 11) Maintain first aid kits in sufficient numbers in the school premises
- (12) Follow the rules and regulations prescribed in Cat Memo No 21741/D1/97, &: 16-2-1998 and other orders of Transport Authority regarding parking of school vehicles/maintenance of vehicles and ensure safety of children, and shall obtain fitness of the school vehicles from the Transport Authority as prescribed by the Government from time to time.
- (13) The cost of providing zebra crossings at the roads crossing near the schools, which are located in Municipal Corporation/Town, shall be met by the School Managements.
- (14) Have adequate personnel to guide the movement of the children to ensure road safety and transportation.
- (15) Produce sanitary certificate from authority concerned.
- (16) Produce structural soundness certificate of the school building/premises and produce occupancy certificate from the authority concerned.
- (17) Any Educational agency intending to seek permission for opening of new school or up gradation of existing school shall produce No Objection Certificate from the Police Department (traffic) and as well as concerned Municipal Corporation Areas. In respect of villages the no objection certificate shall be obtained from the local Gram Panchayat and no objection certificate from Police is not necessary.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

P.KRISHNAIAH

SECRETARY TO GOVERNMENT"

iii) Vide G.O.Ms.No.794, Edn., dated 03.08.1977, the Government had issued amendments to subsidiary Rule 15 of the SSC Scheme approved in the G.O.Ms.No.63, Edn., dated 16.01.1969. The said amendments are relevant and the same are extracted below:

"GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

X CLASS PUBLIC EXAMINATIONS under the Integrated Curriculation from March, 1969 Scheme approved - Amendment in the scheme-Orders-Issued.

EDUCATION (K) DEPARTMENT

G.O.Ms.No.794, Edn. Dated the 3rd August, 1977

Read:

1. G.O.Ms.No.63, Edn., dated 16.1.1969.

2. G.O.Ms.No.1781, Edn., dated 27.11.1971.

3. Govt. Memo No.1850/F2/71, Edn., dt:5.4.72.

4. From the Commissioner for Government Examinations, Lr.No.5/D1-1/68, dated 29.9.1976.

ORDER:-

Government approve the proposals of Commissioner for Government Examinations and issue the following amendments to subsidiary Rule 15 of the SSC Scheme approved in the G.O. first read above:

AMENDMENT

Delete items (i), (ii) and (iii) under subsidiary Rule 15 of the SSC Scheme and substitute the following:

i) Each pupil of X Class (Regular and Supplementary) should necessarily attend the School for not less than 75% of the number of working days, in a school year.

ii) No condonation of shortage in attendance will granted by any authority in respect of X Class pupils, except as mentioned in Sub-para (iii) below:

iii) The District Educational Officer of the District is however, authorized to grant condonation of shortage in attendance, in exceptional conditions and circumstances, by relaxing the Rules of attendance and such a condonation shall not exceed 5% (i.e. upto 70%). The Director of School Education is also similarly empowered to condone shortage of attendance upto a further extent of 5% (i.e., 65%). If there are any exceptional cases which require condonation beyond 10% they shall be referred iv) to Government.

iv) The Heads of Institutions shall calculate the attendance of the X Class regular candidates as well as supplementary candidates as on the day of preparing the nominal rolls, assuming that all the pupils will attend the school, on all the remaini working days, during that particular school year i.e., upto 15th March.

v) If there are any pupils who do not satisfy 75% of minimum attendance, in respect X Class even after assuring that they would attend the school on all the remaining working days during that particular school year, i.e., upto 15th March, the names such pupils should not be included in the nominal rolls unless the shortage in attendance in respect of such pupils is condoned by the competent authority as contemplated in sub-rule (iii) of subsidiary Rule 15 supra.

vi) The number of working days for the institution should be calculated from the date of re-opening of the institution after summer vacation for the school year upto 15th March.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

C. SRINIVASA SASTRY

SECRETARY TO GOVERNMENT"

iv) Vide G.O.Ms.No.2 of School Education (Prog.II) Department, dated 26.08.2014, respondent No.1 had issued certain clarifications and amendments to G.O.Ms.No.17, dated 14.05.2014.

v) Vide G.O.Ms.No.17, School Education (PE-Programm-II) Department, dated 14.05.2014, respondent No.1 had issued orders for implementation of examination reforms in respect of Class IX and X from the academic year 2014-15. Vide G.O.Ms.No.2, dated 26.08.2014, certain amendments were brought to the said G.O. The relevant amendments are extracted below.

"2. In the reference 2nd read above, the Commissioner & Director of School Education, Telangana has submitted proposals for considering certain clarifications and amendments to the G.O. 1" read above and SSC examinations pattern as follows.

a) Under rule 2e - Qualifying marks in internals and in each paper in summative examinations for non language subjects.

Prescribing pass marks in the internal examinations and in each paper of non language subjects shall be dispensed with. However, 35% is the pass marks for all the subjects. The candidates must qualify in the written examination and at least attain 28 marks out of 80 marks for theory paper to pass in every subject."

b) xxxx

c) xxxx

d) xxxx

e) xxxx

3) The C&DSE has further submitted the following proposals:

a) Facility of appearing the SSC exam without school study.

The existing facility of students appearing for SSC public examinations without regular school study needs to be dispensed with. Such students may appear for class X through other alternative systems like National or State open school systems and encourage students at school stage for regular schooling rather than appearing exams without school study."

Therefore, to start a school, to obtain renewal and to obtain permission for Up-gradation, school has to necessarily follow the aforesaid Rules and the procedure prescribed thereunder.

vi) As stated above, the competent authority had issued proceedings dated 19.02.1995 to the School to start Classes I to V (T/M) for the academic year 1994-95 to 1998-99. Thereafter, the School had submitted renewal proposal

dated 18.08.2010 and the same were rejected by the competent authority i.e., the District Educational Officer, Khammam vide proceedings dated 18.08.2010, for want of challanas and feasibility report of the Department. However, the Competent Authority had requested the School to submit fresh proposals in terms of G.O.Ms.No.1, dated 01.01.1994 and G.O.Ms.No.361, dated 30.06.2010. The School had made an application dated 27.04.2012 to the District Educational Officer, Khammam, for grant of renewal and recognition for Class I to V (T/M) and permission to start Class VI to X (E/M & T/M). A feasibility report was called for. In view of the same, the Deputy Educational Officer and Mandal Educational Officer concerned have visited the School and they found the aforesaid lapses/ deficiencies. According to them, the School is not having sufficient infrastructural facilities and other amenities. Therefore, the authorities have informed the petitioner to submit proposals in terms of the aforesaid G.Os. for renewal of Class I to V (T/M) and permission to start Class VI to X (T/M) within the stipulated time. The School failed to submit the said proposals within the stipulated timelines.

vii) In view of the orders issued by respondent No.2, respondent No.4 had requested the School to submit fresh proposals seeking permission to Class I to X at a stretch for the academic year 2014-15 duly following the conditions, remittance of application fee, applicable rules to respondent No.4 by 31.10.2013. The School failed to submit the said proposals. On the other hand, it had filed a writ petition vide W.P. No.3476 of 2003 and this Court vide order dated 08.12.2003 disposed of the said writ petition directing the respondents therein, particularly the competent authority i.e., the District Educational Officer, Khammam, to consider the request of the School for grant of recognition for running Classes VI to X and pass appropriate orders within a period of three (03) weeks from the date of receipt of a copy of the order. However, it was made clear that it is open to the School to file an additional representation, by bringing to the notice of the said competent authority regarding the fulfillment of the required norms in support of the relief for recognition classes from VI to X. The School had not submitted the said proposals and also additional representation to the competent authority stating that it has fulfilled the required norms. However, respondent No.4 vide proceedings dated 10.01.2014, rejected the request of the School for renewal of Classes I to V (E/M) and permission to start Classes VI to X on the ground that the School failed to meet the necessary requirements in terms of the aforesaid G.Os and it is not feasible for consideration. Respondent No.4 had instructed the School to submit fresh proposals as per the checklist communicated to the Correspondent of the School on 05.10.2013 by following the Government Orders as on date while fulfilling the required norms since as on date, the School failed to submit the proposals as per norms, instead it had submitted representation through letter pads only. The said proceedings are under challenge in W.P. No.6776 of 2017.

viii) The aforesaid facts would reveal that the School is not having recognition, hence the Students are not entitled to write examinations. Students, who studied

regularly in recognized School and attended all the Formative/Summative Assessments, shall only be eligible for appearing SSC Public Examinations as per Paragraph No.3 (a) of G.O.Ms.No.2, dated 20.08.2014. The School also failed to submit the average of four Formative Assessments of the Students in terms of G.O.Ms. No.17, dated 14.05.2014. The average of FAs/SA and subject wise average of internal marks are to be recorded separately. The said procedure was not followed by the School in respect of the Students.

ix) The students who studied in registered school regularly only are eligible for appearing SSC Public Exams. The students who appeared Formative Assessments (Internal Exams) only are eligible for appearing SSC Public Examinations in terms of G.O.ms.No.17, dated 14.05.2014. The Students in the present writ petition are not having the aforesaid eligibility criteria to appear SSC Examinations. The said facts are not in dispute.

x) It is relevant to note that in paragraph No.5 of the writ affidavit, the School has stated as under:

"5. I respectfully submit that inspite of receipt of the said order dated: 8.12.2003, the District Educational Officer, Khammam has deliberately failed to comply with the said order in spite of further representations and requests made by me. I submit that expecting permission from the District Educational Officer, Khammam, the petitioner started classes VI to X and admitted students for the said classes. I submit that several batches of class X students have completed their studies and appeared for the SSC Public Examinations through different schools and by way of Private Candidates. I submit that the District Educational Officer, Khammam has slept over the applications submitted by the petitioner for renewal of recognition for classes I to V and permission for classes VI to X since more than 15 years."

Thus, the Correspondent of the School himself admitted that expecting permissions from the District Educational Officer, Khammam/Competent Authority, he has started Classes VI to X and admitted the students for the said classes. Several batches of Class X students have completed their studies and appeared for SSC Public Examinations through different schools and by way of private candidates. The said contention of the School is illegal and contrary to the procedure laid down under the aforesaid Rules vide the aforesaid GOs. Expecting permission from the competent authority, the School cannot admit the students and cannot run classes. It has to wait for the permission. Without obtaining permission, it cannot admit the students.

xi) It is also not in dispute that the School failed to submit fresh proposals despite advice given by the competent authority. Though respondent No.4 competent authority rejected the request of the school vide proceedings dated 10.01.2014, it had filed the writ petition only on 23.02.2017. Now, the School is claiming that after much persuasion, recently respondent No.4 had furnished the proceedings dated 10.01.2014. It had not received the checklist dated

05.10.2013. However, the School did not state on which date it had received the proceedings dated 10.01.2014.

xii) EARLIER ORDERS PASSED BY THIS COURT:

(a) Vide order dated 12.03.2018 in I.A. No.2 of 2018 in W.P. No.6776 of 2017, this Court granted interim direction as prayed for. However, the same shall be subject to the outcome of the writ petition i.e., direction to the respondents to receive the nominal rolls of the Students forwarded by the School and permit them to appear for SSC Public Examinations scheduled in the month of March, 2018. The said order was passed considering the submissions made by the School that the proposals submitted by the School are pending before the respondents. The status in the Online is placed on record by the learned counsel for the School.

(b) Vide order dated 01.02.2019, this Court allowed I.A. No.6 of 2019 impleading the Students as respondent Nos.6 and 7. In respect of I.A. Nos.3, 4 and 5 of 2018, this Court passed the following order:

"Therefore, respondent-Board is directed to announce the results for the limited purpose of showing whether these students have passed all or any of the papers and in the event those students have not passed any or all the papers, permit them to submit applications along with requisite examination fee to write examinations in March, 2019. If students have passed all the papers, merely because result is directed to be announced, no right would accrue to seek for issuance of pass certificates until further orders. If students have failed in any of the examinations, they may be permitted to write the examinations. The respondent-Board shall take into consideration the internal marks if they were already furnished.

Accordingly, I.As are ordered."

The said order was passed considering the order dated 12.03.2018 in I.A. No.2 of 2018.

(c) Feeling aggrieved by the said order, the respondent authorities have filed a writ appeal vide W.A. No.147 of 2019, and the Division Bench had disposed of the said writ appeal on 28.02.2019 with the following order:

"6. We see that the direction for permission to write examination and for further examination in case of failure cannot be carried forward from time to time unless the Court takes a final call on the eligibility of the writ petitioner to relief. Therefore, it is appropriate to permit the impugned order to continue for the time being, however, with a request to the learned Single Judge to expedite the consideration of the main issue between the writ petitioner-school and the Government on the question of recognition. This will enable determination of issues as to eligibility of the students to go for the examinations hereinafter."

(d) Vide order dated 08.05.2019 in W.P. No.10202 of 2019, this Court directed

respondent Nos.1 to 3 therein to issue examination hall tickets to the Students to enable them to write the supplementary examination of the Intermediate First Year 2019 scheduled to commence on 25.05.2019. However, their results shall not be declared without the permission of the Court.

(e) Vide order dated 13.02.2020, this Court passed the following order:

"The learned Standing Counsel for Board of Intermediate Education on instructions submits that hall tickets are being generated and would be forwarded to the 4th respondent-college and the petitioners can approach the 4th respondent College tomorrow to collect their hall tickets, if they are otherwise eligible."

(f) Now, the Students have filed I.A. No.1 of 2020 in W.P. No.10202 of 2019 seeking a direction to respondent Nos.2 and 3 therein to issue the examination hall tickets for the Second Year Intermediate examination scheduled on 04.03.2020 (Main Exam) and 15.02.2020 (4th Batch Practical Exam) to the Students and a consequential direction to them to declare the First Year Intermediate results of the Students.

xiii) The above said facts would reveal that admittedly, the School has no permission to start Classes VI to X. Its application was rejected vide proceedings dated 10.01.2014 by the competent authority. The said proceedings are under challenge in W.P.No.6776 of 2017. During pendency of the said writ petition, expecting permission from the competent authority i.e., the District Educational Officer, Khammam, the School had started Classes from VI to X and admitted the Students for the said Classes. The said action of School is illegal and in violation of the principle laid down in the aforesaid Rules, G.O.Ms.No.1, dated 01.01.1994 and the subsequent G.Os.

xiv) By virtue of the aforesaid interim orders granted by this Court from time to time, the respondent authorities have issued hall-tickets and permitted the students to appear in the examinations. Results were also declared. It is relevant to note that the aforesaid orders including the Division Bench order are subject to the result of W.P. No.6776 of 2017. In the aforesaid order dated 28.02.2019, the Division Bench of this Court has also observed that it is only by way of interim order on equities. The same is subject to the adjudication of the main issue involved in the writ petition. Thus, the aforesaid orders are subject to the result of W.P.

xv) In view of the aforesaid facts, the question that falls for consideration is "whether to decide the aforesaid writ petitions, on equities considering interest and future of the Students or to decide the writ petitions strictly in accordance with law, rules and law laid down by the Hon'ble Supreme Court?"

a) In *Regional Officer, SBSE v. Sheena Pethambaran* (2003) 7 SCC 719, the Apex Court held as under:

"6. This Court has on several occasions earlier deprecated the practice of

permitting the students to pursue their studies and to appear in the examination under the interim orders passed in the petitions. In most of such cases it is ultimately pleaded that since the course was over or the result had been declared, the matter deserves to be considered sympathetically. It results in very awkward and difficult situations. Rules stare straight into the face of the plea of sympathy and concessions, against the legal provisions."

b) In *C.B.S.E. v. P. Sunil Kumar* (1998) 5 SCC 377, the Apex Court held that the institutions whose students were permitted to undertake the examination of the Central Board of Secondary Education were not entitled to appear in the examination. They were, however, allowed to appear in the examination under the interim orders granted by the High Court. In paragraph No.4, it was held as under:

"4.But to permit students of an unaffiliated institution to appear at the examination conducted by the Board under orders of the Court and then to compel the Board to issue certificates in favour of those who have undertaken examination would tantamount to subversion of law and this Court will not be justified to sustain the orders issued by the High Court on misplaced sympathy in favour of the students."

c) In *Guru Nanak Dev University v. Parminder Kr. Bansal* (1993) 4 SCC, 401 the Apex Court held as under:

"7. ...We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to anyone. From the series of orders that keep coming before us in academic matters, we find that loose, ill-conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it, leading to serious impasse in academic life. Admissions cannot be ordered without regard to the eligibility of the candidates ... The courts should not embarrass academic authorities by themselves taking over their functions."

d) In *A.R Christians Medical Educational Society v. Govt. of A.P.* (1986) 2 SCC 667 the Apex Court held as under:

"10. ...We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the court to disobey the laws."

e) In *State of Tamil Nadu v. St. Joseph Teacher's Training Institute* (1991) 3 SCC 87 the Apex Court held that the direction of admitting the students of unauthorized educational institutions and permitting them to appear at the examination has been looked on with disfavour and the students of unrecognised institutions who are not legally entitled to appear at the examination conducted by the Educational Department of the Government cannot be allowed to sit at the

examination and the High Court committed an error in granting permission to such students to appear at the public examination.

f) In *Central Board of Secondary Education v. Nikhil Gulati* (1998) 3 SCC 5, the Apex Court held that deprecated the practice followed by the High Court to issue direction and also observed that such aberrations should not be treated as a precedent in future.

g) In *Krishna Priya Ganguly v. University of Lucknow* (1984) 1 SCC 307, the Apex Court held as under:

"3. Whenever a writ petition is filed provisional admission should not be given as a matter of course on the petition being admitted unless the court is fully satisfied that the petitioner has a cast-iron case which is bound to succeed or the error is so gross or apparent that no other conclusion is possible."

h) In *State of Maharashtra v. Vikas Sahebrao Roundale* (1992) 4 SCC 435, the Apex Court held that the students of unrecognized and unauthorized educational institutions could not have been permitted by the High Court on a writ Petition being filed to appear in the examination and to be accommodated in recognized institutions. It was observed as under;

"12. ...Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education."

i) Referring to aforesaid judgments, the Apex Court in *Sunil Oraon (Minor) through Guardian v. CBSE* (2006) 13 SCC 673, held as under:

"23. Time and again, therefore, this Court had deprecated the practice of educational institution admitting the students without requisite recognition or affiliation. In all such cases the usual plea is the career of innocent children who have fallen in the hands of the mischievous designated school authorities. As the factual scenario delineated against goes to show the school has shown scant regards to the requirements for affiliation and as rightly highlighted by learned counsel for the CBSE, the infraction was of very serious nature. Though the ultimate victims are innocent students that cannot be a ground for granting relief to the appellant. Even after filing the undertakings the School non-challantly continued the violations.

24. Students have suffered because of the objectionable conduct of the school. It shall be open to them to seek such remedy against School as is available in law, about which aspect we express no opinion."

j) The sum and substance of the aforesaid judgments is that Institutions shall not admit the students without proper recognition or affiliation. The High Court shall not pass any interim orders directing the Authorities to permit the Students to appear in the exams without proper recognition or affiliation.

xvi) In view of the aforesaid law laid down by the Apex Court and also the

aforesaid discussion, considering the fact that the School has no permission to start Classes VI to X and it is not having permission to up-grade itself. Therefore, the Students are not entitled to appear for SSC Examinations. Students, who regularly study in recognised School, attend all the Formative/Summative Assessment (FA/SAs) shall only be eligible for appearing SSC Public Examinations as per Paragraph No.3 (a) of G.O.Ms.No.2, dated 20.08.2014. The School has to submit average of four Formative Assessments of the Students, which the School did not do so. The School did not maintain the Internal marks as per the procedure. The School has to record average of FAs/SA and subject wise average of internal marks separately. The students are lacking the entire eligibility criteria. They were appeared in the SSC Examinations, their results were declared in compliance of the interim orders passed by this Court. Pursuant to the same, the Students took admission into Intermediate Course in Saahithi Junior College, Yellandu. Whether they have informed about the pendency of the present writ petitions to the said College is a question of fact. Whether the said College has admitted the Students on verifying the entire documents including their 10th Class results, marks memo etc. and also considering the interim orders granted by this Court and pendency of these writ petitions is also again a question of fact. xvii) As discussed supra, despite specific advise / instructions, the School failed to submit the applications within the time frame in accordance with the procedure laid down under the aforesaid GOs. Timelines, procedure, fee etc. are also specifically mentioned in the manner stated above. During the inspection, the Officials have found that the School did not have the requisite infrastructure. Therefore, the School failed to meet the required eligibility criteria to accord permission. Thus, considering the said aspects, respondent No.4 had rightly rejected the proposal submitted by the School vide proceedings dated 10.01.2014. There is no error in it.

xviii) It is not in dispute that the Students/petitioners in W.P. No.10202 of 2019 are the children of Correspondent of the School. In the entire writ affidavit in W.P. No.6776 of 2017 including I.As., he has not mentioned that they are his children. However, respondent No.4 in its counter has specifically mentioned that they are the children of the Correspondent of the School. Further, the Correspondent has not stated that the Students have attended the School which is having recognition and affiliation.

xix) Vide proceedings dated 29.12.2017, the competent authority has directed to close down the School and to file a criminal case against the Correspondent. When the Mandal Educational Officer tried to close the School and lodge a criminal complaint as directed by respondent No.2, the Correspondent of the School himself came forward to close the School itself. In the counter, respondent No.4 has specifically mentioned that a criminal complaint was lodged against the Correspondent and the details of the same are not disclosed. There is no clarity with regard to the admission of the Students by the aforesaid College. The said aspects are factual aspects which the Principal Secretary has to consider during the course of inquiry.

xx) Vide proceedings dated 28.01.2017, respondent No.4 had informed the School that nominal rolls of the Students submitted by the School are returned and the same cannot be considered since the Students have not attended Classes from recognition School and they have to be submitted through recognition school. The said aspect was not considered by this Court while granting interim order.

xxi) It is relevant to note that vide proceedings dated 28.03.2019, the Deputy Secretary to Government of Telangana Higher Education Department informed respondent No.2 i.e., the Secretary, Telangana State Board of Intermediate Education that Director of Government Examinations released the SSC Public Exams held in March, 2018 and that the Students have passed examinations and qualified to appear and continue their further studies. Thus, he has requested the Secretary, Telangana State Board of Intermediate Education to take necessary action in the matter. When there is no permission to the School and that the Students have not attended regular classes, they did not possess requisite qualifications, on what basis, the Deputy Secretary had issued such proceedings is unknown. The said aspect has to be inquired into by the Principal Secretary.

xxii) It is also relevant to note that this Court while granting the aforesaid interim orders did not consider the important aspect that the School is not having permission to run Classes VI to X and their application was rejected vide proceedings dated 10.01.2014 by the competent authority. The said aspects were not considered at all by this Court while granting the aforesaid interim orders. Thus, the Correspondent of the School had obtained the aforesaid interim orders by misrepresentation of facts. He has started Classes VI to X without obtaining permission from the competent authority and without there being any order from this Court in W.P. No.6776 of 2017. Thus, the Correspondent of the School has played fraud on the Court and also on the Authorities and got obtained the aforesaid interim orders. He failed to anticipate that the future of his children will be at stake and he has spoiled the career of his own children. Therefore this is not a case of granting relief to 'the Students' on equities and if granted it amounts to perpetration of further illegality. Thus, the School in W.P. No.6776 of 2017 is not entitled for any relief. Like-wise, the students in W.P. No.10202 of 2019 are also not entitled for any relief as their admission into Intermediate Course is illegal and in violation of the procedure laid down in the aforesaid G.Os.

xxiii) It is settled law that a person approaches the Court for a writ of mandamus should first convince the Court as to what is the statutorily enforceable right available to him. As discussed supra, the petitioners in both the writ petitions failed to establish the said right to issue a writ of mandamus. Therefore, they are not entitled for the same.

xxiv) In *Mani Subrat Jain v. State of Haryana* AIR 1977 SC 276, the Apex Court held as follows:

"It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something."

xxv) However, as discussed above, the Correspondent of the School had admitted the Students expecting permission from competent authority, started several batches of X Class and the students have completed their studies and appeared for SSC Public Examinations through different Schools by way of private candidates. Despite the aforesaid correspondence, the respondent authorities have not acted immediately and they have not considered the application submitted by the School immediately. This Court vide order dated 08.12.2003 directed the competent authority to consider the proposals submitted by the School. The same was not considered within the timelines mentioned by this Court. There are laches and delay on the part of the respondent authorities at every stage. According to the Correspondent of the School, he has not received checklist dated 05.10.2013. It is also a question of fact. In view of the aforesaid facts and circumstances, this Court is of the considered view that an enquiry has to be ordered in the entire affairs of the School. Therefore, respondent No.1 i.e., the Principal Secretary, Education Department, State of Telangana, is directed to conduct an inquiry personally into the entire facts of these two writ petitions including the contentions raised by the School as well as the respondents and take action in accordance with law. Considering the fact that the lis is pending since last fifteen (15) years, the Principal Secretary shall complete the said inquiry as expeditiously as possible.

8. CONCLUSION:

With the aforesaid observations and directions, both these writ petitions are dismissed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the writ petitions shall stand closed.