

(2012) 03 CAL CK 0096

In the Calcutta High Court

Case No : M.A.T. 150 of 2012, CAN 855 and 856 of 2012

Regional Director, National Council for Teachers' Education
and Another

APPELLANT

Vs

Sidra B. Ed College and Others

RESPONDENT

Date of Decision : 02-03-2012

Acts Referred:

Citation : (2012) 03 CAL CK 0096

Hon'ble Judges : Shukla Kabir (Sinha), J

Bench : Single Bench

Advocate : Asha Gourisuri Ghutghutia, for the Appellant; Saugata Bhattacharyya, for the Respondent

Judgement

1. The appeal is barred by 208 days. Causes being sufficiently explained, delay is condoned. Since the appeal would involve pure question of law, we have taken up the hearing on the available papers filed before us.

2. Heard Mr. Asha Ghutghuria appearing for the appellants and Mr. Saugata Bhattacharyya for the respondents.

3. The respondent No. 1 is an Institute recognized under the appellant for imparting Teachers' Training Education amongst the students studying in the said College, the respondents applied for further permission for undertaking B. Ed Course. The application was made on October 24, 2008 when the recognition and norms and standards with effect from December 10, 2007, was invoked.

4. The authority considered the application and rejected the same on two grounds:

(i) the land on which the Institute was situated, did not belong to the Management;

(ii) the building constructed for the purpose of housing the College did not have completion certificate from the appropriate authority.

5. The appellant issued reminders by granting time to the respondents to cure the defects. They did not do so. Hence, the authority did not have any alternative but to reject their application. The respondents preferred an appeal before the statutory appellate authority. The appellate authority dismissed their application. The respondents then approached the learned Single Judge by filing a writ petition. By that time they cured the defects. They obtained completion certificate from the appropriate authority. They also solved the title dispute and got the land mutated in their name as asserted before the learned Single Judge. His Lordship considered the changed scenario and set aside the order of the appellate authority passed by the appellant so merged in the appellate authority and asked the appellant to reconsider the issue. Being aggrieved, the appellants before us filed the instant appeal.

6. Ms. Ghutguatia, learned counsel for the appellants submits that the appellant is a Body overseeing the management and affairs of various private Institutes through out the country imparting Teachers' Training Institute. Under the Statute each and every Institute is obliged to have prior permission and authority from the appellants before undertaking any Teachers' Training Course within the country. Under the Statute it is also the bounden duty of the appellants to oversee that all institutes recognized by them are run under the following appropriate guideline prevalent therefor. Hence, it would not be proper for the appellants to ignore the deficiency of any institute including the respondents before granting them permission to undertake a new Teachers' Training Course. She also submits that the application was pending for a long time, repeated opportunities were given to the respondents to cure the defects, they did not do so. Now that they asserted to have cured the defects, they were free to apply afresh and if approached, the authority would definitely consider the application as per prevalent Rules. There is no scope for reopening the issue.

7. She is also critical about the observation of the learned Single Judge that the scope and ambit of considering the application by the appellate authority have "lesser degree of scrutiny".

8. We have considered the rival contentions. We are of the view that the appellants did not commit any illegality in rejecting the application of the respondents after giving them ample opportunity to cure the defects. At the same time, we cannot be oblivious of the fact that the deficiencies so highlighted by them, are not absolutely in the hands of the respondents, such defects could not be cured unilaterally.

9. The learned Single Judge, however, approached the problem with a pragmatic approach. His Lordship considered the changed scenario and asked the authority to reconsider the issue. We do not find any confirmity on that score.

10. Whether the procedure for consideration would involve lesser degree of scrutiny or not is not so material in the instant case. The appellant is a creation of a Statute. It is bound to follow the statutory obligations. The respondents

applied for the recognition as per the Rules prevalent as on the date of making of such application being the Regulation of December 2007. We are told that such Regulation is repealed by Regulation of August, 2009 that cannot be applied in their case as the learned Judge asked the appellant to reopen and reconsider the issue. We give a free hand to the appellant to reconsider the issue as directed by His Lordship as per the Regulation dated December 10, 2007. Such reconsideration must take place within three months from the date of communication of this order.

11. Needless to say, refusal must attract a reasoned order to be communicated to the respondents. The order of the learned Single Judge is modified accordingly. This appeal is disposed of without any order as to costs.

Urgent xerox certified copy of this order, if applied for, be given to the parties on priority basis.