
(2011) 08 GUJ CK 0019
In the Gujarat High Court

Case No : Letters Patent Appeal No. 2483 of 2010 in Special Civil Application No. 10311 of 2010 and Civil Application No. 12806 of 2010

Samagra Gram Seva Samaj Mandalkarath APPELLANT
Vs

State of Gujarat and Others RESPONDENT

Date of Decision : 11-08-2011

Acts Referred:

Gujarat Secondary Education Regulations, 1974 — Regulation 10(1), 9

Citation : (2011) 08 GUJ CK 0019

Hon'ble Judges : S.J. Mukhopadhaya, C.J.; J.B. Pardiwala, J

Bench : Division Bench

Advocate : B.M. Mangukiya and Bela A. Prajapati, for the Appellant; Krina Calla, AGP for Respondents 1 - 3, for the Respondent

Judgement

J.B. Pardiwala, J.

1 In this appeal, the Appellant-original Petitioner seeks to challenge judgment and order dated 31.08.2010 passed by the learned Single Judge in Special Civil Application No. 10311 of 2010, whereby, the learned Single Judge rejected the petition preferred by the Appellant-original Petitioner.

2 Facts relevant for the purpose of deciding this appeal can be summarized as under:

2.1. The Appellant is a charitable trust. The Appellant-trust is running a school - Gram Seva Vidhyalaya Karath, Taluka: Jhalod. The said school was initially permitted to start Secondary Education Section for opening Class of Standard-VIII. The said permission was granted from the academic year 1985-1986. It appears that the trust preferred a proposal for starting 2nd Class of Standard-VIII in the school which was permitted on 22.02.2005. In the year 2008, the Petitioner trust preferred an application seeking permission to start 3rd class of Standard-IX. The request was not accepted and the same was rejected by the Joint Director of Education against which, an appeal was preferred and the same

was also dismissed by Respondent No. 2 vide order dated 12.05.2008. In the year 2009, once again, the trust preferred an application seeking permission to start 3rd class in Standard-IX which came to be rejected by Respondent No. 3 vide order dated 03.02.2010, against which an appeal was preferred before Respondent No. 2 which also came to be dismissed on the ground that the Petitioner-trust is not having adequate infrastructure like furniture etc. to accommodate students for starting 3rd class of Standard-X. It is at that stage that the Appellant preferred writ petition being Special Civil Application No. 10311 of 2010 challenging orders passed by Respondent Nos. 2 and 3. The learned Single Judge came to the conclusion that No. relief can be granted, as what is the position of the infrastructure and other facilities in the school, would be a pure question of fact and, therefore, the learned Judge rejected the petition.

3. We have heard learned advocate Mr. B.M. Mangukiya appearing for the Appellant and learned A.G.P. Mrs. Krina Calla appearing for the Respondents.

4. Learned advocate Mr. Mangukiya submitted that there are adequate infrastructure facilities in the school. He further submitted that the Appellant has purchased around 100 benches and there is sufficient furniture for 720 students. He submitted that there is complete non-application of mind on the part of the Respondents in taking the view that there is No. proper infrastructure in the school.

5. Per contra, learned A.G.P. Mrs. Krina Calla, on behalf of the Respondents, submitted that permission to open a new class is governed by the Gujarat Secondary Education Regulations, 1974 as amended upto 30.06.2001. She has relied upon certain Regulations. Reliance has been placed on Regulations 9, 10(1) (a) and 10(1)(b). The Regulations which are relevant for the purpose of deciding this appeal are as under:

9(13)...The following shall be the standard requirements in respect of building, laboratory, library, furniture, equipments, stationary and other articles for conducting registered schools and equipments for a Secondary school.

Provided that where the requirements cannot be complied with by any applicant for registration of a School, the applicant may specify in full details, special circumstances, reasons or local conditions on account of which such deficiency in or deviation from the standard requirements may be condoned.

i. the premises should be sufficiently healthy, welllighted and ventilated, with due provision for the safety of the pupils and with separate, satisfactory and adequate sanitary arrangements for girls in the case of a school providing co-education;

ii. the rooms in which classes are held should provide requisite accommodation for all the student actually admitted in each class, at the rate of not less than 8 sq.ft. per student i.e. 400 sq.ft. or 40 sq.mtrs. exclusive of the space required for a table and chair for a teacher, a teaching platform, a blackboard and any other

equipment required for teaching;

IV. Every registered school shall, as far as practicable, provide a playground within a reasonable distance from the school at the rate of one acre of land for every 250 students.

Provided that the Executive Committee may, in special circumstances of a case, relax the requirement under this paragraph.

Regulation No. 10(1)(A)

No. manager of a registered school shall open Std.X in such school except with the prior permission of the Secretary.

(B) No. manager of a registered school shall open Std.XI or any additional divisions of the existing standard without prior permission of the Commissioner.

(2) (A) An application for permission to open a higher standard or higher standards should be submitted to the Commissioner at least 6 months before commencement of the academic year from which it is proposed to be opened.

(B) Similarly an application for the permission to open a new division or additional divisions of the existing standard should be submitted to the Commissioner within a month from the commencement of the academic year.

(3) (A) No. permission to open Std.X shall be given by the Secretary unless he is satisfied that the manager is ready and willing to make adequate provision in relation to additional class-rooms, laboratory, library, furniture, equipments, stationery and other articles required for conducting Std.X.

(B) No. permission shall be granted to open Standard or additional divisions of existing standard unless the Commissioner is satisfied that the management is ready and willing to make adequate provisions in relation to additional class-rooms, laboratory, library, furniture, equipments, stationary and other articles required for conducting additional classes.

6. The affidavit has been filed by the District Education Officer, Dahod wherein, a report prepared by the D.E.O., Dahod dated 08.06.2011 has been relied upon which reads as under:

1. The school has two storeyed private rented pukka (concrete) building. Out of 7 rooms on the ground floor, 5 rooms have 400 sq. feet area and 2 rooms have less than 400 sq.feet area. Out of 7 rooms on the first floor, 5 rooms have 400 sq.feet area while 2 rooms have less than 400 sq.feet area.

Out of 6 rooms on the second floor, 1 room has more than 400 sq.feet area, 1 room has less than 400sq.feet area. In total there are 22 rooms in the school building.

2. Class wise/standard wise Registered students as per 31-05-2011.

No.	Std	Sanction Class	No. of Registered Students	Boys	Girls	Total
1						
8						
3						
76						
67						
143						
2						
9						
2						
85						
71						
156						
3						
10						
2						
75						
69						
144						
4						
11						
1						
105						
67						

172

5

12

1

63

52

115

Total

9

404

326

730

Details of school Furniture

Bench (Desk)

3 seated 40 benches

4 seated 139 benches

Total 179 benches

57 Chairs, 2 cupboards, 4 stands, 32 tables, 7 stools, 17 safe, 9 fans.

The school has been given 11 computer sets. (With LCD, Printer, Scanner) under ITC scheme.

4. Last 3 years school result

S.S.C. Result

No

Year

No. of Filled up forms

Appeared

Passed

School Results

Board Result

1

2009

152

152

85

55.92

56.43

2

2010

149

148

87

59.60

60.81

3

2011

144

144

115

79.86

78.65

H.S.C. Result

No.

Year

No. of Filled up forms

Appeared

Passed

School Results

Board Result

1

2009

63

63

61

97.10

85.20

2

2010

97

97

97

100

85.91

3

2011

116

115

102

87.93

77.94

5. Health Concerned Facilities

15 urinals, 2 toilets and 3 bathrooms.

There are 2 hand pumps in the school. The school has also submersible and bore well facility, tapfitting for water supply.

The above details indicate that the school has the seating arrangements for 673 students. The total number of students are 730. So the seating arrangement is not enough. There isn't enough latrine bathroom facilities as per the students ratio.

Considering the class permission of June 2009 and also considering the ratio of students as classwise 65+65+25, there isn't enough strength in std. 10. also in std. 9 there are 156 students.

It's for your kind notice that as per the present norms 60+60+24 there enough students from June-10.

7. Taking into consideration the relevant aspects of the matter and also keeping in mind the scope of interference and judicial review of administrative orders, we are of the view that No. error, much less an error of law, can be said to have been committed by the learned Single Judge in rejecting the petition.

8. This appeal, being without any merit, is ordered to be dismissed with No. order as to costs. Civil Application stands disposed of accordingly.