

(1992) 07 RAJ CK 0005

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4468 of 1992

S.M.B. Secondary School

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 14-07-1992

Acts Referred:

Citation : (1992) 2 WLC 616 : (1992) 2 WLN 548

Hon'ble Judges : S.N. Bhargava, J

Bench : Single Bench

Judgement

S.N. Bhargava, J.—As per the facts mentioned in the memo of writ petition the petitioner is an aided and recognised institution by the Government of Rajasthan. By this writ petition the petitioner has challenged the order dated 8.6.1992 passed by the Collector, Ajmer, which was forwarded to the petitioner on 18.6.1992, de-acquisitioning the building in which the petitioner school was being run since 1967 except for a brief period between 1.7.1984 to 28.10.1985. The building was acquired by the Collector by order dated 9.8.1985. The impugned order has been challenged on several grounds but it appears from the order itself that it has been passed ex-parte. Neither the petitioner i.e. the Principal of the School nor the Administrator (Distt. Education Officer) was either present nor had any notice of the date of hearing nor they were present on the date of hearing. I had sent for the record also which supports this contention. The order has been challenged on several grounds in this petition which was filed on 25.6.1992. Notices to show cause were issued on 26.6.1992. A reply has been filed on behalf of respondent Nos. 1 to 3 on 4.7.1992 and on behalf of respondent Nos. 5 to 10 on 6.7.1992. Arguments have been heard.

2. I have given my thoughtful consideration to the whole matter.

3. Looking to the facts and circumstances of the case, specially that the school was being run in the building since 1967, except for a short span of nearly one year and the Collector had requisitioned the said building by his order dated 9.8.1985 and an Administrator had been appointed for managing and running

the school and the fact that there was no notice to either the Headmistress or the Administrator to present their point of view before the Collector before the impugned order was passed which clearly amounts to violation of the basic and fundamental principles of natural justice, it will be in the fitness of things that the petitioner should be given an opportunity to submit his objections before the Collector for passing the proposed order, specially in view of the fact that the petitioner in his writ petition has submitted that there was a compromise between the owner of the building and the petitioner in this regard.

4. In the result, this writ petition is disposed of with the direction that the petitioner should submit his objections or submissions before the Collector, Ajmer, within one week including all those which he has made in the writ petition. Collector shall decide the whole matter afresh after giving full opportunity of hearing to the petitioner & the Administrator of the School, including opportunity of leading oral and documentary evidence if they so desire and then pass appropriate order.

5. Meanwhile, the operation of the order dated 8.6.1992 is stayed. The school should be allowed to be run in the building till the matter is finally decided by the court. No order as to costs.