

(2017) 03 KAR CK 0122
In the Karnataka High Court
Case No : 10483 of 2017 (EDN REG-P)

SRI. SEVALAL BANAJARA (LAMANI)

APPELLANT

Vs

THE COMMISSIONER PUBLIC INSTRUCTIONS, & ORS.

RESPONDENT

Date of Decision : 21-03-2017

Acts Referred:

[Education Act, 1983](#), Section 39, Section 67

Citation : (2017) 03 KAR CK 0122

Hon'ble Judges : S.Sujatha

Bench : SINGLE BENCH

Advocate : SHASHIDHARA.R, H.T. NARENDRAPRASAD

Final Decision : Allowed

Judgement

1. The petitioner has challenged the order passed by the 2nd respondent dated 16.6.2015 vide Annexure-F to the writ petition beside seeking a writ of mandamus directing the respondents to renew the recognition of the school from the year 2010 to till date etc.

2. It is contended that the petitioner Society has been registered as per the Societies Registration Act, started with an intention to impart education to the socially and economically backward students. It is the contention of the petitioner that the society as per the permission from the respondents is running a high school by name, Sri Guleda Lakshmidewi Rural High School at Hulikatte Village, Harapanahalli Taluk, Davanagere District; the respondent granted permission to run the school from the year 1991-92 and periodically renewed the same. It transpires that the 2nd respondent had issued a show cause notice to the petitioner for withdrawal of the recognition as the minimum strength prescribed under Section 39 of the Education Act 1983 was not maintained. For which, a suitable reply was issued by the petitioner. But the respondent proceeded to pass the order cancelling the recognition. It is submitted that representations were made by the petitioners to grant permission to reopen the school since the school is having sufficient strength. As per the request, the 3rd

respondent appointed special inspector to visit the school and report the actual fact situation. The special inspector visited the school and submitted the report, suggesting that the petitioner is eligible for permission to reopen the school, but the same is not acted upon. Hence, this writ petition.

3. Heard the learned counsel for the parties and perused the material on record.

4. Admittedly, the petitioner is running a school imparting education to the students in Kannada medium and is an unaided school. The respondents initiated action only for the reason that the school has no minimum strength as provided under Section 39 of the Act. From the language of Section 39 of the Act, it is clear that the action of the state government to withdraw the recognition should be initiated only in the larger interest of the public. The respondents have neither justified their action under Section 39 of the Act nor they have followed the provisions under Section 67 of the Act. The action of the respondents in closing the school is detrimental to the interest of the students who were studying in the petitioner school. Under the Karnataka Educational Institutions (Recognition of primary and Secondary Schools) Rules 1999, the conditions for grant of recognition to an Educational

Institutions are prescribed. The said Rules do not provide for the exigency of withdrawal of recognition if there is any fall in the strength below the minimum in any given year. A fall in the strength in any given year would not entail for withdrawal of recognition or that school should be closed, particularly where there are few institutions offering Kannada medium of instruction in the rural areas. A school which is imparting education in Kannada medium of instructions without any aid from the government on private funds cannot be closed for want of minimum strength. This view has been fortified by the judgment of this Court in *Arya Vidya Shala Parents Association /vs./ State of Karnataka and others* (W.P.No.45588/2012 disposed of on 11.2.2014).

5. The report submitted by the special inspector in pursuance of the directions issued by the 3rd respondent would clearly indicate that a school requires to be re-granted the permission as the order dated 29.9.2016 at Annexure-M is not acted upon according to the petitioner. In view of the same, it would hardly justify the closure of private unaided institutions which are otherwise capable of sustaining themselves to cater to the need of the students in a rural area.

6. In the circumstances, the impugned order at Annexure-F deserves to be quashed and is accordingly set aside. Writ petition is allowed. The petitioner shall submit a fresh representation before the respondents to seek renewal of the recognition of the school. On such representation being made, the same shall be considered by the respondents as expeditiously as possible.