
(2016) 06 KAR CK 0100

In the Karnataka High Court

Case No : Writ Petition No. 9266 of 2016 (EDN-RES).

**St. Joan Arc. Foundation School, HSR Sector-I, Bangalore - Petitioner
@HASH State of Karnataka and Others**

Date of Decision : 10-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Education Act, 1983 — Section 31

Citation : (2016) 5 KantLJ 537

Hon'ble Judges : Aravind Kumar, J.

Bench : Single Bench

Advocate : Sri L.S. Tejasvi Surya for Sri Veeresh Kumar C.K., Advocate, for the Petitioner; Smt. Promodini Kishan, High Court Government Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

Aravind Kumar, J. - Petitioner is seeking for quashing of notice dated 2-2-2016 - Annexure-L issued by second respondent and also for a direction to consider the application afresh submitted by it on 6-6-2016 in accordance with law and also to permit petitioner to make fresh admissions of students for the academic year 2016-17.

2. Heard Sri L.S. Tejasvi Surya appearing for petitioner, learned Government Pleader appearing for respondents and perused the records.

3. Petitioner is said to be imparting education since last 17 years in Bangalore at HSR Layout, in its own premises for the last three years and is having about 250 students, studying from LKG to VIII Standard. On a notice being published by the Department of Education, declaring that petitioner-Institution is an unauthorised School, a reply has been sent on 17-6-2015 - Annexure-H and by a notice dated 2-2-2016 addressed to press and jurisdictional police. However, a direction to close down petitioner-Institution within seven days from the date of receipt of notice by shifting of the students to nearby Schools came to be issued on 2-2-2016 Annexure-L by third respondent. Seeking quashing of the same, the

present writ petition has been filed.

4. During pendency of the present writ petition, petitioner is said to have submitted an application under Section 31 of Karnataka Education Act, 1983 for registration of third respondent. Pursuant to same, an interim order came to be passed on 12-4-2016 by this Court. Same is to the following effect:

ORDERS ON I.A. No. 1 OF 2016

Learned Counsel for the petitioner submits that petitioner-school has made an application to the 3rd respondent for registration under Section 31 of the Karnataka Education Act. However, learned AGA appearing for the respondents submits that Competent Authority to consider the application is the Commissioner of Public Instructions. Therefore, the petitioner is permitted to make an application to the Competent Authority for registration of the school in question within a period of one week from today.

2. The authority concerned is directed to consider the same in accordance with law keeping in mind that the academic year 2016-2017 is scheduled to commence in the month of June 2016.

3. The Competent Authority shall endorse on the Transfer Certificates of the students, who have passed from 8th Standard to 9th Standard from petitioner-school. IA No. 1 of 2016 is accordingly disposed of.

Subsequently, petitioner is said to have submitted an application on 27-4-2016, pursuant to which an inspection was conducted by the "Subject Inspector" on 30-4-2016, who has opined that documents indicated therein are required to be furnished by the petitioner-Institution within 3 days. It is thereafter petitioner filed a fresh application on 6-6-2016 purportedly containing all the requisite documents and also information required to be furnished. However, even before said application came to be considered, an endorsement dated 17-5-2016 came to be issued to petitioner-Institution by stating that application is not being considered on account of non-compliance of the criteria prescribed under the extant notifications and specifically" the following:

1. No document is evidencing to show that the petitioner-Institution is having half an acre of converted land or it possesses lease of the said extent of land registered in its name;

2. Application has not been submitted on-line;

3. The details of the Managing Committee is not forthcoming.

5. It is the grievance of the petitioner that the objection now raised in the endorsement dated 17-5-2016 was never raised earlier or intimated to then petitioner and even when Subject Inspector informed the defects in the application of petitioner on 30-4-2016. Hence, he contends that respondent-authorities are raising unnecessary objections and that too on instalment basis and on account of the same, petitioner and students studying in petitioner-

School are being put to untold hardship. Hence, he prays for a direction being issued to the respondents to consider the application of the petitioner dated 6-6-2016 which was in furtherance of the application already filed on 27-4-2016.

6. Smt. Promodini Kishan, learned Government Pleader would submit that respondent-authorities would consider the application submitted by petitioner on merits and in accordance with the notifications dated 11-11-2014, 2-5-2015 and 20-5-2016, expeditiously. Her submission is placed on record. In the light of afore stated facts, this Court directs that second respondent-Commissioner of Public Instructions and Deputy Director of Public Instructions shall consider the applications of the petitioner dated 27-4-2016 and 6-6-2016 and dispose of the same on merits and in accordance with law by keeping in mind notifications dated 11-11-2014, 2-5-2015 and 20-5-2016 and also the order of this Court passed in Writ Petition No. 55713 of 2014 (EDN-REG-P) on 3-12-2015 expeditiously, at any rate, within an outer limit of two weeks from today.

7. Ordered accordingly.

8. Smt. Promodini Kishan, learned Government Pleader is permitted to file memo of appearance within three weeks from today.