

(1992) 10 KAR CK 0019
In the Karnataka High Court
Case No : W.A. No. 1706 of 1992

Vidyaranya Vidya Samsthe

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 19-10-1992

Acts Referred:

Constitution of India, 1950 — Article 19 (6)

Citation : (1992) ILR (Kar) 3466 : (1992) 4 KarLJ 464

Hon'ble Judges : K.A. Swami, Acting C.J.;N.D.V. Bhat, J

Bench : Division Bench

Advocate : A.V. Gangadharappa, for the Appellant;

Final Decision : Dismissed

Judgement

K.A. Swami, Ag. C.J.

1. This Appeal is preferred against the order dated 6.8.1992 passed in W.P.No. 23316/1992. The learned Single Judge has rejected the Writ Petition. Hence, the petitioner has come up in Appeal.

2. In the Writ Petition, the petitioner appellant sought for quashing the order dated 21.7.1992 (Annexure-B) granting permission to respondent-3 to start a High School in Kannada Medium for the academic year 1992-93. The learned single Judge has rejected the Writ Petition on the ground that Rule 9 of the Grant-in-Aid Code is not enforceable. Therefore, it does not give any right to the petitioner to challenge the order granting permission to respondent-3 to start a High School in Kannada Medium for the academic year 1992-93 in Bommanahalli village, Chikkanayakanahalli Taluk.

3. Sri A.V. Gangadharappa, learned Counsel for the appellant submits that the authority concerned is required to satisfy itself under Rule 9 of the Grant-in-Aid Code that whether there is any need to start another High School as there is already a High School in Bommanahalli Village and as to whether it would lead to unhealthy competition. According to Sri Gangadharappa Rule (ii) of the Grant-in-

Aid Code is not satisfied but it is rather violated in the instant case.

4. It is not possible to accept this contention. We would like to point out that there is no enforceable right vested in the appellant-petitioner to challenge the establishment of another School by another person. He does not get any right merely because he runs a High School. Similar question arose before the Supreme Court in *The Nagar Rice and Flour Mills and Others Vs. N. Teekappa Gowda and Bros. and Others*, in which it was held thus:

"Section 8(3)(c) is merely regulatory, if it is not complied with the appellants may probably be exposed to a penalty, but a competitor in the business cannot seek to prevent the appellants from exercising their right to carry on business, because of the default, nor can the rice-mill of the appellants be regarded as a new rice mill. Competition in the trade or business may be subject to such restrictions as are permissible and are imposed by the State by a law enacted in the interests of the general public under Article 19(6), but a person cannot claim independently of such restriction that another person shall not carry on business or trade so as to affect his trade or business adversely. The appellants complied with the statutory requirements for carrying on rice milling operations in the building on the new site. Even assuming that no previous permission was obtained, the respondents would have no locus standi for challenging the grant of the permission, because no right vested in the respondents was infringed."

Though the Decision was rendered in the context of granting a licence to run a rice mill and the right of an existing rice mill owner to oppose the same, the principle laid down therein is equally applicable to the case on hand.

5. The authority, before granting permission, is required to consider and satisfy itself as to whether Rule 9 of the Grant-in-Aid Code is complied with. As long as there is no vested right in the petitioner to challenge the same, we do not see any justification to interfere with the order granting permission to start another school especially when there is a cry all over for establishment of more and more schools. However, the learned Counsel for the appellant placed reliance on a Division Bench of this Court in *State of Karnataka Vs. Tarur Education Society*, No doubt, in that Decision to which one of us (KAS J) was a party, it has been specifically laid down that Rule 9 has to be complied with whether it is a case of shifting of an existing institution from one place to another or starting of a new institution. But, it does not follow that Rule 9 is violated and the order granting permission should be interfered with.

6. Accordingly, the Writ Appeal is dismissed.