

(2011) 02 MAD CK 0277

In the Madras High Court

Case No : Writ Petition No. 22455 of 2010 and M.P. No's. 1 and 2 of 2010

V.N.S. High School

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 18-02-2011

Acts Referred:

Citation : (2011) 02 MAD CK 0277

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : A.S. Mujibur Rahman, for the Appellant; G. Sankaran, Spl. G.P., assisted by, S. Naganathan, G.A., for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The Petitioner-V.N.S. High School, Ramnad, is a minority Educational Institution started in the year 1924 and it is governed by the Tamil Nadu Recognized Private Schools Regulation Act. In the beginning, the School was started with Standards I to v. as Elementary School and it was granted recognition by the authorities and for the teachers appointed, staff grant was also released. In the year 1981, the Petitioner-School was upgraded as Middle School with Standards VI to VIII and due recognition was granted for the up-gradation to Middle School Status. As no High School with Standards-IX and X was available in the vicinity within 15 kms., the community people approached the Petitioner-School Management to start classes for Standards-IX and X to meet the needs of their children. Consequently, for the academic year 2005-06, the Petitioner-School started IX standard classes with the strength of 40 students including 20 girl students and simultaneously, an Application, dated 31.05.2006, was submitted to the 5th Respondent/District Educational Officer, Remand, requesting for grant of recognition without aid. The said Application along with necessary proposals was forwarded to the higher authority for further action. Since there was no action on the part of the authorities, the Petitioner-School filed a writ petition in W.P. No. 13079 of 2008. In the meantime, the authorities

rejected the Application for grant of recognition to run classes for Standards-IX and X, where upon, the prayer already made in W.P. No. 13079 of 2008 was amended for issuance of a writ of certiorari to quash the order, dated 07.05.2008, passed by the Director of School Education and to direct the said authority to grant recognition for the IX and X standards started by the School from the academic year 2006-07 as per the Application submitted on 31.05.2006. This Court, by Order dated 29.07.2008, directed the 2nd Respondent to consider the case of the Petitioner for grant of recognition to Standard IX and X. Based on the orders passed in the writ petition, the School submitted a representation, dated 28.10.2008, requesting the authorities to comply with the direction issued by the High Court. Though the authorities received the representation, no order was passed, and they preferred a writ appeal in W.A. No. 882 of 2009 with a delay of 75 days. While disposing of the Writ Appeal, by judgment dated 13.04.2010, a Division Bench of this Court, recording the undertaking given by the School to put up the construction for standards IX and X in strict compliance with the requirement of approval, directed the School to make necessary Application thereafter to the authorities. In the meanwhile, the Chief Educational Officer, Ramnad, through a communication dated 18.06.2009, by observing that the Petitioner-School is functioning without recognition for the academic year 2009-2010, directed the school not to admit students in IX and X standards, failing which, the recognition for Standards I to VIII would be cancelled. Subsequently, orders came to be passed in the aforesaid Writ Appeal and reacting on the same, the 3rd Respondent/Chief Educational Officer, Ramnad, by his proceedings dated 21.06.2010, directed the 4th Respondent/District Education Officer to process the application of the school for recognition on merits. Pursuant to the said Order, the 4th Respondent, by Proceedings, dated 01.07.2010, directed the Petitioner to submit the application for admission, transfer certificate and the Education Certificate, and such direction was duly complied with by the Petitioner. Again, by communications dated 16.07.2010, 26.08.2010 and 06.09.2010, the authorities directed the Petitioner to submit necessary particulars as per the proceedings of the third Respondent and the Petitioner replied that all necessary details have been furnished. While so, by the impugned order, dated 26.08.2010, passed by the 4th Respondent, the Petitioner school was directed to send the students who have passed Standard in the academic year 2009-10 to the nearby recognized schools, as otherwise, the CorRespondent of the School would be held responsible for all the consequences. Aggrieved by the said order, the present Writ Petition has been filed.

2. Learned Counsel appearing for the Petitioner, by referring to the order, dated 29.07.2008, passed by this Court in WP No. 13079 of 2008, whereby a positive direction was issued to the authorities for grant of recognition to Standards IX and X started by the School and, by highlighting the Judgment, dated 13.04.2010, of the Division Bench passed in W.A. No. 882 of 2009, in and by which, the School was directed to put up construction for the newly commenced

Standards in strict compliance with the requirements of approval and thereafter to make necessary application before the Government for recognition, would submit that the impugned order passed by the 4th Respondent to send the students who have passed 9th standard in the academic year 2009-10 to the recognized schools is contrary to the order passed by the Division Bench of this Court. By stating that the impugned proceedings would adversely affect the interests of the Institution in getting the recognition, learned Counsel pleads to quash the order under challenge.

3. Per contra, learned Special Government Pleader appearing for the State submits that the Hon'ble Division Bench, while issuing direction to the State to consider the prospective application for approval after compliance by the School regarding construction of the premises for the newly started standards, specifically noted that there was no infirmity in the finding of the learned single Judge to the effect that it was only because of the delay in processing the application of the School the students had been admitted and they had also undergone the course. Consequently, the Division Bench was pleased to hold that the students who have been admitted in IX standard shall be permitted to write the examination and the Government shall not decline to publish the results. As regards the undertaking given by the School Management that they would complete the construction for the newly started standards within the stipulated time, learned Special Government Pleader highlighted the following observation of the Division Bench:

If the school does not construct the building within the stipulated time, then, its for the Government to take action in accordance with law. Further, if for no fault of the Petitioner but some unavoidable reason, the Respondent is unable to complete the construction, it will be open to them to approach this Court for extension of time.

Since the School could not complete the construction asunder taken by it till date so as to get recognition from the authorities, keeping in mind the difficulty of the students moving from IX Standard that they cannot appear for the Standard Public Examinations if they continue in the Petitioner-school as only the students studying unrecognized schools alone would be permitted to appear for public exams, the authority, who is duty bound to take appropriate action in public interest and educational interests of the students, passed the impugned order with a direction to the school to send the students who are promoted from IX Standard to X Standard to the recognized schools. As it is explicitly clear that the impugned order does not pertain to recognition and it came to be passed in the paramount interest of education of the students, there's no scope for interference at all.

4. I have carefully considered the rival submissions on either side.

It is seen that the Petitioner-school applied for temporary recognition without aid to start Standard IX and For the academic year 2005-2006 and 40 students were

admitted in IX Standard including 20 girl students. On the proposal being rejected, again the School applied for grantor recognition for the year 2006-07 and, while the proposal was pending decision, W.P. No. 13079 of 2007 came to be filed. By orders passed in the said Writ Petition, this Court directed the Director of School Education/R2 only to consider the case of the Petitioner for grant of recognition to classes IX and X for the Petitioner School within a period of six weeks. The authorities, considering the fact that the distance between the school and the playground is about 1 km. and that the school does not meet the norms fixed for the land area as the total land area of the schools only 44.75 acres i.e., below 1 acre, were unable to grant recognition, and therefore, filed W.A. No. 882 of 2009. On perusal of the order passed by the Hon'ble Division Bench, it could be seen that the order of the learned single Judge was not upheld in its entirety, rather, it was observed that no infirmity could be found in the order passed in the writ petition as such direction came to be issued only because of the delay on the part of the Education Department in processing the application and of the reason that the students had already been admitted and they had also undergone a course. In that perspective, the Division Bench directed the Government to permit students in the IX standard to write the examination and also, to declare the results. The said direction was issued in the light of the undertaking given by the School that they would put up construction for standards IX and X in strict compliance with the requirement of approval. If there was failure on the part of the School in honoring the undertaking given, it was made clear that it is for the Government to take action in accordance with law.

5. Now, it must be pointed out here that the order of the Division Bench allowing the school to put up construction was only in the best educational interests of the students in the newly started classes. Only if the school, after completing the construction, applies for recognition and secures the same, the students moving from IX to X standard would be in a position to appear for the Public Examinations by continuing their studies in the same School. That is why, the Division Bench explicitly made it clear that if the construction could not be completed within the stipulated time and thereby, recognition could not be secured and the educational interests of the students are put at risk, the Government is at liberty to take action in accordance with law. As on to-day, the school could not secure recognition by taking swift and diligent steps in completing the construction as per the requirements of approval for the new Standards. In such a situation, due to the snail-space functioning of the management regarding compliance, ultimately, the students would suffer as they will not be permitted to write the public exams if they study X standard in the same school. This Court could discern that, only in such a given situation, in the utmost educational interests of the students, the District Educational Officer directed the school, by way of the impugned communication, to send the students promoted from IX to X Standard to the recognized schools in and around Abiramam Village. In my considered opinion, the school may not and

should not have any grievance at all for shifting of the students to the recognized schools so that there would not be any impediment for them in appearing for the Public Examinations and further, for the slackness on the part of the Management in not timely getting the recognition, the students should not be left abandoned to lose the prospects of writing the public examination. In this view of the matter, this Court does not find any reason much less valid reason to interfere with the impugned proceedings of the authority.

6. Writ Petition fails and it is dismissed as devoid of any merit. No costs. Connected Miscellaneous Petitions are closed.