
(2015) 01 KAR CK 0306

In the Karnataka High Court

Case No : Writ Petition Nos. 19117 and 28093 of 2012 (EDN-RES)

Y. Nagaraj and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 28-01-2015

Acts Referred:

Citation : (2015) 01 KAR CK 0306

Hon'ble Judges : S. Sujatha, J.;K.L. Manjunath, J.

Bench : Division Bench

Advocate : R. Gopal, for the Appellant; R. Devadas, Prl. G.A., Advocates for the Respondent

Final Decision : Disposed off

Judgement

K.L. Manjunath, J.—These two petitions are filed by way of public interest.

2. These writ petitions are filed by the petitioners on the ground that respondent No. 1 to 4 have failed to take appropriate action to stop unauthorized and illegal PU Colleges run by 5th respondent in violation of the provisions of Karnataka Education Act, 1983 and also the provisions of Karnataka Pre-University Education (Academic, Registration, Administration and Grant-in-aid, etc.) Rules 2006.

3. According to the petitioners in W.P. No. 28093/2012 they are permanent residents of Harihar Town in Davanagere District. The petitioner No. 1 is a Reporter of local newspaper Tandava Patrike"; petitioner No. 2 is a retired employee of Mysore Kirloskar Limited and a social worker; petitioners No. 3 to 6 are sitting Councilors of City Municipality, Harihar; petitioner No. 9 is a Retired District Health Education Officer and petitioner No. 10 is a Retired Head Master. The petitioner in W.P. No. 19117/2012 is a practicing Advocate.

4. It is the specific case of the petitioners that respondent No. 5 - Chethana Education Trust, has circulated pamphlets announcing admission to PU Course in 22 PU Colleges run by it at various places in Karnataka State, such as,

Davanagere, Bagalkot, Bengaluru, Belgaum, Chikkaballapura, Chithradurga, Dharwad, Hubli, Hassan, Harihar, Kolar, Mangalore, Mysore and Tumkur.

5. By virtue of such publicity given by the respondent No. 5, petitioners have learnt that even much prior to such publication respondent No. 5 had announced for admission of the students to these colleges and collecting heavy fees and donation in November - December, 2011 for the academic year 2012-13, contrary to Rules and Regulations. It is also their case that the respondent No. 5 has not obtained any permission or recognition from the competent authorities. Respondents No. 1 to 4 have allowed respondent No. 5 to commence the Colleges in different places without any basic infrastructure. In the circumstances, in the best interest of the students the present petitions are filed.

6. Though the main grievance of the petitioners is in regard to opening of 22 PU Colleges run by respondent No. 5, they also request the court to direct the respondent No. 1 to 4 to identify such unauthorized and illegal Colleges run in the State and also to find out whether the infrastructure provided by such Colleges and close down all the Colleges which are being run contrary to the Rules and Regulations.

7. Respondent No. 5 has filed statement of objections. According to respondent No. 5, it is an educational institution commenced with an intention to impart education to the students by forming Educational Trust and the Trust came to be registered on 26.04.2003. According to the respondent No. 5, it has given application on 01.12.2003 to open degree College at Davanagere with the courses offering BBM and B. Com along with the required fees. The recommendation was given to start the College in the meeting dated 09.01.2004 and the said recommendation was resolved in the meeting of the Syndicate. Respondent No. 5 has also produced the order passed by the Kuvempu University on 20.07.2004 commencing degree College vide Annexure-R2 at Davanagere.

8. It is also the case of the respondent No. 5 that the respondent No. 1 has sent intimation to the Kuvempu University recommending for sanction of opening a College with the courses BBM and B.Com for the academic year 2004-05 vide Annexure-R3. It is also case of the respondent No. 5 Government has issued an order dated 30.06.2009 in respect of Sri Vyshnavi Chetana Independent Pre-University College at Belgaum for the year 2009-10 with different combinations. Again on 01.09.2007 respondent No. 1 has granted permission to commence unaided PU College at Davanagere with four combinations of the subject for the year 2007-08 and also respondent No. 1 has sanctioned to commence PU College at Chickballapur for the year 2010-13.

9. It is also case of the respondent No. 5 that respondent No. 2 has sent an intimation to the PU Board on 29.05.2012 to consider the application of the respondent No. 5 and in turn, the respondent No. 2 has sent an intimation stating that it has sanctioned permission to start the College for the year

2012-13 at J.P. Nagar, Bangalore. Similarly it has narrated how permission has been taken to run the College. It is also further case of the respondent No. 5 that these petitioners have been set up by the other institutions who are imparting education in similar line. In the circumstances, the respondent No. 5 requests the court to dismiss these writ petitions.

10. The learned counsel for petitioners submit that though the respondent No. 5 has produced relevant orders to show that they have obtained permission granted from respondent No. 1 to 4, is contrary to the Act and Rules. According to them, respondents 1 to 4 even without inspecting and giving a finding with regard to availability of the infrastructure in terms of Rule 4 of the Act and Rules granted such permission to the respondent No. 5. Therefore, they submits that the contentions of the respondent No. 5 has to be negated.

11. In order to appreciate the rival contentions, it would be proper to refer to Rule 4 of the Rules, which reads as hereunder:

"PROCEDURE FOR ESTABLISHING A NEW PRIVATE PRE-UNIVERSITY COLLEGE.-

(1) A registered Managing Committee which is intending to establish a Pre-University college shall intimate its intention to do so to the Director, in Form-I along with a fee of Rs. 500-00. The Director shall record such intimation in a register kept in Form II and thereafter issue a letter of intent to the Managing Committee within thirty days from the date of intimation from the Managing Committee.

(2) Upon receipt of the letter of intent, the Managing Committee intending to establish a Pre-University college shall,-

(a) Within one year from the date of letter of intent, acquire a minimum of 25,000 sq. ft. of land on which it intends to construct the college building including the Principal's Chambers, class rooms, library, etc.,

(b) within three years from the date of letter of intent construct on the said land a building with the following facilities and rooms which shall have a corridor or a veranda of atleast 8 ft. width abutting the entrance to the room, namely:--

(i) Principal's chamber with a minimum plinth area of 250 sq. ft.,

(ii) Office room with a minimum plinth area of 250 sq. ft,

(iii) Staff room with a minimum plinth area of 500 sq. ft,

(iv) Waiting room with a minimum plinth area of 500 sq. ft. for the girls with attached toilets for simultaneous use by 10 persons with sufficient water storage facilities,

(v) Toilets for boys with facility for simultaneous use by 10 persons,

(vi) Library with a minimum plinth area of 1000 sq. ft.,

- (vii) Reading room with a minimum plinth area of 1000 sq. ft.,
- (viii) At least 6 Lecture halls each measuring at least 22 ft X 30 ft,
- (ix) Bicycle stand with a provision for parking minimum 100 bicycles at a time.
- (x) If science subjects are taught, then three laboratories, one for Physics, one for Chemistry and one for Biology and if Electronics or Computer Science subjects are taught separate laboratories for these subjects with a minimum plinth area of 24 ft. X 60 ft. each;
- (c) Provide water, electricity and sanitary facilities in the laboratories, class rooms, office rooms and toilets making the building fit for running a Pre-University college;
- (d) Provide desks, benches, tables, office furniture, shelves, office equipments, apparatus and equipment in the laboratories.
- (3) The minimum requirements specified in sub-rule (2), are meant for six sections and where language subjects in Part-I are only two. For every additional language subject in Part-I, one lecture hall and for every additional subject in Part-II, two lecture halls shall be provided.
- (4) The managing committee shall after complying with the requirements of sub-rules (2) and (3) intimate in writing to the Director the fact that they have acquired the necessary land, constructed the building and provided the basic facilities and civil amenities, etc., as required under sub-rule (2) and also specify the combinations of subjects which they intended to teach.
- (5) The Director shall record such intimation in the register kept for the purpose and shall within the next thirty days request the Inspection Committee to visit the place of the intended location of the Pre-University college and hold inspection.
- (6) The Inspection Committee shall within thirty days thereafter inspect the land and building and submit its report to the State Government through the Director giving specific findings in respect of compliance of the specifications of this rule.
- (7) The Managing Committee shall furnish an undertaking to the Director in respect of the land and building acquired and built as contemplated under this rule in the proforma specified in Form-III to these rules and shall deposit of an amount of Rs. 1,00,000/- in a scheduled bank or a post office branch in the name of the Director of Pre-University Education in Karnataka.
- (8) After satisfying that the Managing Committee has complied with the requirements of sub-rules (2) and sub-rule (7), the State Government shall cause the Director to register the Pre-University college in the register maintained in accordance with Section 31, and shall within one month from the date of undertaking under sub-rule (7), authorize the Managing Committee to recruit the minimum teaching and non-teaching personnel, as follows:--

- (i) one Principal;
 - (ii) one Lecturer for each subject permitted to be taught including the subject taught by the Principal;
 - (iii) One clerk, one peon and where science subjects are to be taught, on laboratory attender.
- (9) The managing committee shall recruit the minimum teaching and non-teaching staff specified under sub-rule (8) within three months from the date of issue of such an authorization.
- (10) The Director shall accord recognition to the Pre-University college only after it has been registered in accordance with the sub-rule (8) and that the managing committee has complied with the requirements of sub-rule (9) and there after record the same in the register maintained under sub-rule (1).
- (11) If, in a Pre-University college recruitment of teaching and non-teaching staff is completed in all respects within the month of May of a calendar year, then the academic activities, such as, admission of students, teaching in class rooms etc., may commence from the month of June of the same calendar year. If the recruitment of the teaching and non-teaching staff is completed after the month of May of a calendar year, then the academic activities, shall commence only in the month of June of the next calendar year.
- (12) If the managing committee fails to acquire the land within the stipulated time or construct the building as required under sub-rule (2) the letter of intent if any given under this rule shall be cancelled after providing an opportunity of being heard to the managing committee."

11. As per Rule 4, within one year from the date of letter of intent, acquire a minimum of 25,000 sq. ft. of land on which it intends to construct the college building including the Principal's Chambers, class rooms, library, etc. Further, within three years from the date of letter of intent construct on the said land a building with the following facilities as narrated under Rule 4 (2)(b) of the Rules.

12. Now, in view of the rival contentions, what is required to be considered in these petitions are, as to whether respondents No. 1 to 4 have really accorded permission to start college at various places by the respondent No. 5. If such permission is granted respondent No. 5 has to adhere to Rule 4 of the Rules. If respondent No. 1 to 4 have accorded permission and thereafter, respondent No. 5 has adhered to Rule 4 of the Rules, then as per the grievance of the petitioners, whether respondent No. 1 to 4 have inspected and found that there are infrastructure to commence college or not. This has to be inquired into and a finding has to be given by the respondent No. 1 to 4.

13. Therefore, we are of the view that these petitions are to be remanded to the respondent No. 1 to 4 to find out whether institutions which are run by the respondent No. 5 have obtained permission or letter of intent as required under

Rule 4 of the Rules. If such letter of intent is granted by the respondents 1 to 4, it is for them to inquire into the matter to find out whether required infrastructure as per Rule 4 of the Rules are fulfilled or not. If such requirements are not fulfilled they shall to take action in accordance with law.

14. This order shall not be applicable only to respondent No. 5 - College, but also to other Colleges all over the State. Therefore, it is incumbent upon the respondents 1 to 4 to inspect all the PU Colleges and find out whether such Colleges have recognition and have complied Rule 4 of the Rules. If Rule 4 of the Rules has not been complied with it is for the respondent No. 1 to 4 to issue notices to the concern Colleges, give them an opportunity of hearing and to take necessary action in accordance with law.

15. With the above observations these writ petitions are disposed of. Respondent No. 1 to 4 to comply with the above directions in regard to respondent No. 5 College within a period of three (3) months from today and with regard to other Colleges in Karnataka six (6) months time is granted. It is needless to state that no action shall be taken by the respondent No. 1 to 4 without giving opportunity of hearing to all the parties and then to pass appropriate orders in accordance with law after following principles of natural justice.