

Court No. - 10

Case :- WRIT - C No. - 27336 of 2023

Petitioner :- Haldhar School And College Ajuha And Another

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Agnihotri Kumar Tripathi

Counsel for Respondent :- A.S.G.I.,Dhananjay Awasthi

Hon'ble Kshitij Shailendra,J.

1. Heard Shri Agnihotri Kumar Tripathi, learned counsel for the petitioners and Shri Dhananjay Awasthi, learned counsel for respondent nos.2 and 3.

2. The petitioners applied for fresh affiliation upto Senior Secondary Level and while the matter was pending before the Central Board of Secondary Education (C.B.S.E.), the petitioner No.2 (herein) filed Writ C No.18542 of 2022 (Anuj Singh v. Union of India And 2 Others) which was disposed off by order dated 12.09.2022, taking into consideration the inspection having been carried out and issuing direction to the Board to decide the petitioners' application in accordance with law considering the inspection report submitted to it.

3. The Joint Secretary (Affiliation), Central Board of Secondary Education has, by the order impugned dated 13.10.2022, rejected the petitioners' application by pointing out certain deficiencies in a tabular form as noticed by the Inspection Committee in the inspection conducted on 22.08.2022.

4. Learned counsel for the petitioners submits that one of the deficiencies pointed out in the inspection report is that Recognition Certification of school has expired on 31.03.2021 and school has

not yet applied for renewal of the same and the said fact being contrary to record and the recognition having already been granted on 31.03.2023, the order impugned is perverse. When pointed out that order impugned was passed in October 2022 and the Certificate has been granted in March 2023, learned counsel for the petitioners submits that even in October 2022, the application for obtaining recognition certification was pending and, therefore, contrary recital to the effect that the petitioners have not applied for renewal, is incorrect. As regard other deficiencies, it has been argued that the school is having sufficient infrastructure i.e. library, equipments, toilet facilities, playground and boundary wall and, therefore, even those deficiencies noticed in the inspection report are factually incorrect. Learned counsel has tried to convince the Court about the standards of the Institution by placing reliance upon certain original photographs attached to the petition and, in this background, it has been argued that the order impugned be set aside and petitioners should be granted affiliation.

5. Shri Dhananjay Awasthi, learned counsel for the respondent-Board, on the other hand, submits that grant of recognition is subsequent to passing of the order impugned and even ignoring the deficiency no.1, as on today, there is no reply to all other nine deficiencies pointed out in the inspection report and noted in the order impugned. He submits that once this Court had directed the Authorities to decide the application after taking into consideration the inspection report and the Authorities have reproduced the inspection report in the order impugned which goes against the petitioners, no illegality can be pointed out in the order refusing affiliation.

6. Having heard learned counsel for the parties, the Court finds

that even if, the Institution has been accorded recognition from the office of District Basic Education Officer on 31.03.2023, the said order was passed after five months from the date of passing of the order impugned. Other objectionable features noted in the inspection report related to non-maintenance of Admission and Withdrawal register; non-availability of tube-lights in classrooms; various infirmities regarding mathematics and physics laboratories; no permanent structures/setup and no proper ventilation; auditorium and library being present in a common room; no railings on the staircase; unhygienic condition of girls toilet having no doors installed; non-payment of salary to teachers; non-maintainability of service book of staff; no stipulated service conditions and non-implementing E.P.F. etc. etc. are sufficient to reject the petitioners' application, at least at this stage. It is not the case that inspection was carried out behind the back of the petitioners or that Inspection Committee was not constituted in accordance with law.

7. The Court is not an expert body in every matter and it is for the Authorities to take a decision after taking into consideration the aspects which are relevant for the purposes of granting affiliation. Though, learned counsel for the petitioners, by referring to 'paragraph No.15' of the writ petition, has argued that on 22.08.2022, when the inspection was carried out, the Manager of the Institution was present in the Court, the Court is not inclined to accept the submission for various reasons including the fact that in the earlier Writ C No.18542 of 2022, reliance was placed by the petitioners on the inspection report dated 22.08.2022 and the writ petition was disposed off accepting the submission that decision has to be taken on the basis of the inspection carried out on 22.08.2022. The petitioners cannot go behind the earlier order of

this Court insofar as the validity of the inspection is concerned.

8. There being nothing on record to satisfy the Court that the deficiencies as pointed out in the order impugned, except the deficiency no.1, do not exist as on today, no good ground to set aside the order impugned dated 13.10.2022 stands made out.

9. The writ petition is **dismissed** at this stage confirming the order impugned, except the finding recorded on Point No.1 as recognition has been granted to the petitioners in March 2023.

10. Dismissal of the writ petition will not come in the petitioners' way to remove the deficiencies as noted in the order impugned and submit a fresh application before the concerned Authorities who shall examine the same in accordance with law and, in case need arises, fresh inspection shall be carried out and the decision shall be taken on the basis of fresh inspection report.

Order Date :- 21.11.2023

Jyotsana