

**Court No. - 8**

**Case :-** WRIT - C No. - 8545 of 2023

**Petitioner :-** M/S Vijeta Educational Society,Lucknow  
Thru. Secy. Mr. Lokesh Singh And Another

**Respondent :-** Central Board For Secondary  
Education,New Delhi Thru. Chairman And Another

**Counsel for Petitioner :-** Samanvya Dhar  
Dwivedi,Abhishek Mishra

**Counsel for Respondent :-** Shashank Bhasin

**Hon'ble Pankaj Bhatia,J.**

1. Heard Sri Sudeep Seth, learned Sr. Advocate assisted by Sri Samanvya Dhar Dwivedi, Sri Abhishek Mishra, Sri Aniket Tripathi, Ms. Ishita Chakrawarti, learned counsel for the petitioners, Sri Shashank Bhasin, learned counsel for the respondents and perused the material brought on record.

2. The present writ petition has been filed by the petitioner challenging the order dated 07.09.2023 (Annexure No. 2 to the writ petition), whereby the application of the petitioner filed for grant of affiliation was finally rejected by observing that the land certificate uploaded by the petitioner's institution is not as per Appendix-x. It was further observed that as per land certificate, the land measuring 10068 sqmts owned by Vijeta Education Society by way of sale deed but it is not clear that this school is run by Vijeta Education Society or the land

leased to school by Vijeta Education Society. Therefore, the application is being rejected.

3. The counsel for the petitioner argues that the petitioner no. 1 is a society registered under the Society Registration Act and the respondent no. 1 is empowered to grant affiliation to various schools, seeking affiliation. It is argued that the respondent no. 1 has issued Bye-laws, which are known as Affiliation Bye-laws-2018 (Annexure No. 10 to the writ petition). In terms of the said Bye-laws, it is open to any school desirous of obtaining affiliation to apply for same after following the guidelines prescribed and thereafter, subject to the applicant school fulfilling the requisite norms for affiliation, the respondent no. 1 is either to grant affiliation or refuse the same. In terms of the norms for affiliation as contained in the Bye-laws of 2018, certain requirements in terms of the possession of land, infrastructure etc are prescribed. The petitioners claiming that they fulfilled all the requisite criteria applied for grant of affiliation through online application along with requisite documents. It is claimed by the petitioners that they were served with an email dated 07.08.2023 indicating that the documents uploaded by the school are not as per the Bye-laws/SARAS Manual and the said information is available in the progress panel in the

SARAS Portal. It is proposed to be argued that the form Appendix-x, which was required to be fulfilled in terms of the Bye-laws was prescribed to be fulfilled in a format, which is annexed along with the Bye-laws and as contained at page 150 of the paper book. The counsel for the petitioners draws my attention to the form filled by the petitioner in the format Appendix-x, and is contained at page no. 80 of the paper book. He further draws my attention to demonstrate that the format prescribed and contained in Bye-laws as well as the form filled by the petitioners are similar in all respects. It is argued that as the petitioners were apprised that the form is not as per the Appendix-x, the petitioners were under the impression that the form sent by the petitioners in the format Appendix-x was wanting in certain aspects, as such, the said form as was originally uploaded by the petitioners, was uploaded again. However, the order impugned came to be passed rejecting the same. He further draws my attention to the specific assertion made in the application filed by the petitioners and which is contained at page 45 of the paper book to demonstrate that the school for which the affiliation is sought is being run by the petitioner's society. In the light of the said, it is argued that the reasoning recorded are contrary to the prescription of

the Bye-laws and thus the same should be set aside. He further argues that in view of the order passed and impugned in the present writ petition, a huge discontent has arisen amongst the parents of the student in view of the media reports that the affiliation of the institution has been canceled. He further argues that the petitioners are ready and willing to submit the certificate as may be desired by the respondent, however, the application of the petitioner for affiliation may be re-processed in accordance with law, for which the petitioner has filed the present writ petition.

4. The counsel appearing on behalf of the respondent no. 1 argues that although in terms of Bye-laws of 2018 known as Affiliation Bye-laws, the format of Appendix-x was prescribed, however subsequently, a circular was issued by the respondent prescribing as under:-

"Suggestive formats of essential documents required for application under various categories of affiliation with CBSE"

In terms of the said circular, 7 other conditions were prescribed to be submitted by the desirous schools seeking affiliation. Appendix-x which pertains to the ownership of the land was slightly modified in the circular.

The said circular was dated 14.10.2022 and was numbered as Circular No. 12 of 2022. He further argues that to streamline the process of affiliation, guidelines were issued which were known as SARAS. In terms of the said guidelines, it was prescribed that the format as prescribed in the Bye-laws/Circular have to be fulfilled by the institution desiring affiliation. He further argues that with regard to the new condition prescribed in Circular No. 12/2022, the petitioner fulfilled all the other guidelines which were pointed out, however the Appendix-x as modified by Circular No. 12 of 2022 was not submitted by the petitioner, which has resulted in the rejection of the application, by means of the order which is impugned herein under. He further argues that in the impugned order itself, it has been mentioned that if the institution desiring affiliation possess the necessary documents, they are free to apply fresh, however, in respect of the present academic year, date for applying for affiliation has already come to an end. He argues that in respect of all other institutions, further steps in pursuance of their application are underway and at this stage, the claim of the petitioner cannot be considered.

5. Considering the submissions made at the Bar, what transpires that a process of affiliation was to be governed

by the Bye-laws of 2018. In the said Bye-laws, there was a prescription to furnish the documents pertaining to title in a format prescribed as Appendix-x. There was a slight modification in the said format, which was done in Circular No. 12 of 2022, however, pursuant to the said circular the affiliation guidelines were never amended. Although the respondents mentioned the requirement of fulfilling the format prescribed under the Circular No. 12 of 2022 while issuing the guidelines known as SARAS, the Bye-laws themselves were never amended. On perusal of the format prescribed by the affiliation guidelines of 2018 and partially modified by Circular No. 12 of 2022, not much variance is seen in the two and the intent of both is to ascertain whether the institution applying for guidelines possesses requisite land on which the school is proposed to be run.

6. In the present case, not only did the petitioner file the information required in the Appendix-x as per the 2018 guidelines, the petitioner has also annexed the copy of the sale deed executed in favour of the petitioner to dispel any doubt that may have arisen with respect to the ownership of the land in question where the school is running and for which the affiliation was sought. Although the said sale deed was not required to be uploaded in

terms of the Bye-laws, the petitioner to avoid any confusion had done so. The reasons for rejection as contained in Annexure No. 2, are in essence that the format as prescribed in the Circular No. 12 of 2022 i.e. Appendix-x has not been followed.

7. On the basis of the material available on record as discussed above, the error on the part of the petitioner is bonafide as it is not clear as to whether the petitioners/the desirous institutions, were required to adhere to the 2018 guidelines or to the circular no. 12 of 2022. Thus, although two Appendix-x as prescribed are similar in content and contains a very small variance, the non-furnishing of Appendix-x in terms of the circular no. 12 of 2022 could not be fatal to the application of the petitioner seeking affiliation and in any case it was incumbent upon the respondents to have drawn the attention of the petitioners that the format submitted by them, although adhering the 2018 guidelines, did not adhere the guidelines modified through Circular No. 12 of 2022 which has not been done by the respondent prior to passing of the impugned order.

8. At this stage, the counsel for the petitioners agrees that they are ready and willing to submit details on a format, which is required as per the Circular No. 12 of 2022 in a

very short time and the application of the petitioner should be considered as fresh.

9. Considering the said, the present writ petition is disposed of permitting the petitioner to submit a fresh format as is prescribed in Circular No. 12 of 2022 as contained at page 69 of the paper book, on or before 31.10.2023. The petitioners would be at liberty to send the said certificate as directed above through an email to the respondent no. 1 and through registered post as well as the same shall be sent to the respondent no. 2. In case, the petitioner submits the application as directed above, the respondent no.2 shall process the application of the petitioner bearing Application No.SS002862425220230629155918, dated 07.09.2023 and pass the order thereupon within further period of two weeks.

10. In view of the directions contained herein, the order dated 07.09.2023 loses efficacy and is quashed.

**Order Date :- 16.10.2023**  
Arun