

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

W.P.(C).No.9449 of 2009 (A)

PETITIONER(S):-

MANAGER, HOLY CHILD CENTRAL SCHOOL,
SNEHAGIRI, MALA, TRICHUR DISTRICT.

BY ADVS.SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.L.RAM MOHAN.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
GENERAL EDUCATION (N) DEPARTMENT, THIRUVANANTHAPURAM.
2. COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS,
REPRESENTED BY ITS SECRETARY,
PRAGATHI HOUSE, 3RD FLOOR,
47-48, NEHRU PLACE, NEW DELHI-110 505.

R1 BY GOVERNMENT PLEADER SMT.A.LOWSY
R2 BY STANDING COUNSEL SRI.R.RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-09-2015, ALONG WITH W.P.(C).NO.12513 OF 2009-H & CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

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| EXT.P1 | COPY OF THE RELEVANT PORTION OF THE BYE-LAWS OF ICSE. |
| EXT.P2 | COPY OF THE COVERING LETTER SUBMITTED TO THE 2ND RESPONDENT BY THE PETITIONER. |
| EXT.P3 | COPY OF THE LETTER DATED 08.11.2006 OF THE DEO. |
| EXT.P3(a) | COPY OF THE SPOT VERIFICATION REPORT. |
| EXT.P4 | COPY OF THE JUDGMENT DATED 24.06.2008 IN W.P.(C) NO.18882 OF 2008. |
| EXT.P5 | COPY OF THE LETTER DATED 18.8.2008 OF THE 1ST RESPONDENT. |
| EXT.P6 | TRUE COPY OF THE REPLY DATED 25.08.2008 SUBMITTED BY THE PETITIONER. |
| EXT.P7 | COPY OF THE G.O.(RT).NO.4418/08/.G.EDN. DATED 6.10.2008. |
| EXT.P8 | COPY OF G.O.(MS).18/88 DATED 12.01.1988. |
| EXT.P9 | COPY OF THE JUDGMENT DATED 15.12.208 IN W.P.(C).32141/2008. |
| EXT.P10 | COPY OF THE HEARING NOTICE DATED 21.1.2009 ISSUED BY THE 1ST RESPONDENT. |
| EXT.P11 | COPY OF G.O.(MS).204/2008/G.EDN. DATED 15.12.2008. |
| EXT.P12 | COPY OF G.O.(MS) NO.3/09/G.EDN. DATED 5.1.2009. |
| EXT.P12(a) | COPY OF THE G.O.(MS) 82/88/G/.EDN. DATED 15.4.1988. |
| EXT.P13 | COPY OF THE HEARING NOTE SUBMITTED BY THE PETITIONER. |
| EXT.P14 | COPY OF THE APPLICATION SUBMITTED BY THE FIRST RESPONDENT FOR EXTENSION OF TIME. |
| EXT.P15 | COPY OF THE COMMUNICATION DATED 7.2.2009 OF THE FIRST RESPONDENT. |
| EXT.P16 | COPY OF THE AUDITED BALANCE SHEET FOR THE YEARS ENDING AS ON 31.3.2008, 31.3.2007 & 31.3.2006. |
| EXT.P16(a) | COPY OF THE CERTIFICATES (3 Nos.) REGARDING STRENGTH OF PUPILS OF NEIGHBOURING SCHOOLS WITHIN 3 KMS. OF PETITIONER'S SCHOOL. |
| EXT.P16(b) | COPY OF LIST OF STAFF WITH QUALIFICATIONS. |

- EXT.P16(c) COPY OF THE CERTIFICATE FROM EMPLOYEES PROVIDENT FUND ORGANIZATION WITH COMBINED CHALAN EVIDENCING PAYMENT OF EPF CONTRIBUTION.
- EXT.P16(d) COPY OF THE ACQUITTANCE REGISTER.
- EXT.P17 COPY OF THE ORDER DATED 26.2.2009 OF THE 1ST RESPONDENT.
- EXT.P18 COPY OF G.O.(MS)244/99/G.EDN. DATED 30.09.1999.
- EXT.P19 COPY OF THE SAID CIRCULAR NO.278 DATED 31.03.2006 ISSUED BY THE ACCOUNTANT GENERAL, KERALA (A&E).
- EXT.P20 COPY OF THE APPLICATION SUBMITTED BY THE TRAVANCORE DEVASWOM BOARD CENTRAL SCHOOL, CHAKKUVALLY, SOORANAD P.O., SOORANAD, KUNNATHOOR.
- EXT.P21 COPY OF THE AFFIDAVIT DATED 30.4.2008 OF THE SECRETARY, TDB.
- EXT.P21(a) COPY OF THE LAND CERTIFICATE.
- EXT.P21(b) COPY OF THE ORDER DATED 26.3.2008 SANCTIONING AFFILIATION TO THE SAID TDB CENTRAL SCHOOL, CHAKKUVALLY, SOORANAD.
- EXT.P22 COPY OF THE APPLICATION SUBMITTED BY THE TDB CENTRAL SCHOOL, KADAKKAL TO CBSE.
- EXT.P23 COPY OF THE LETTER OF CBSE CONSTITUTING THE INSPECTION COMMITTEE DATED 23.2.2009.
- EXT.P24 COPY OF THE APPLICATION SUBMITTED BY THE TDB CENTRAL SCHOOL AT VETTIKAVALA, KOLLAM.
- EXT.P24(a) COPY OF ONLINE CERTIFICATE EVIDENCING THE CONSTITUTION OF THE INSPECTION COMMITTEE AS ON 27.2.2009.
- EXT.P25 COPY OF THE COMMUNICATION NO.1744/KE/PAF DATED 18TH MARCH, 2010 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R2(a) TRUE COPY OF THE GUIDELINES OF AFFILIATION BROUGHT OUT BY THE 2ND RESPONDENT IN MAY, 2006.

VKU/-

[TRUE COPY]

K. Vinod Chandran, J

W.P.(C).Nos.9449 of 2009-A, 12513 of 2009-H,
12726 of 2009-I & 32025 of 2009-W.

Dated this the 07th day of September, 2015.

JUDGMENT

The petitioners herein are aggrieved by the 'No Objection Certificate' [for brevity "NOC"] not being issued by the State, for affiliation under the Council for the Indian School Certificate Examinations.

2. The petitioners were all granted interim orders, provisionally permitting affiliation by the 1st respondent-Council even without a NOC issued by the Government. A similar issue was considered in judgment dated 20.05.2015 in W.P.(C).No.9010 of 2010, in which the interim order so granted, was made absolute insomuch as it pertains to the grant of temporary affiliation to the petitioner therein. The same direction shall be applicable in the case of the present petitioners also.

3. However, the learned Government Pleader submits that, the subsequent Government Order, with respect to the NOC, was challenged before this Court and is now pending before the

Hon'ble Supreme Court, in which stay was granted. In such circumstances, the provisional continuance of the petitioners shall be subject to the result of the cases pending before the Hon'ble Supreme Court. If any of the petitioners have obtained NOC subsequently, then necessarily such petitioners would not be affected by any change in circumstance.

The writ petitions are disposed of as above. No costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]