

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 5675 of 2015 (H)

PETITIONER(S):

**THE NATIONAL PUBLIC SCHOOL,
KALOOR, REPRESENTED BY ITS MANAGER,
E.S. MUHAMMED KABEER, DESHABHIMANI ROAD,
KALOOR P.O., KANAYANNUR, KOCHI,
ERNAKULAM, KERALA-682 017.**

BY ADV. SRI.T.M.ABDUL LATHEEF.

RESPONDENT(S):

**THE CENTRAL BOARD OF SECONDARY EDUCATION,
REPRESENTED BY THE SECRETARY,
CENTRAL BOARD OF SECONDARY EDUCATION,
'SHIKSHA KENDRA', 2 COMMUNITY CENTRE,
PREET VIHAR, NEW DELHI-110 092.**

BY ADV. SRI.DEVAN RAMACHANDRAN, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : TRUE COPY OF THE ORDER DATED 03.02.2015 ISSUED BY THE RESPONDENT.
- EXT P2 : TRUE COPY OF THE CERTIFICATE ISSUED BY HON'BLE MAYOR OF COCHIN CORPORATION DATED 12.02.2015.
- EXT P3 : TRUE COPY OF THE GOVERNMENT ORDER NO.GO(RT) 4656/12/G.EDN/TVM. DATED 29.09.2012.
- EXT P4 : TRUE COPY OF THE GOVERNMENT ORDER NO.G.O.(MS) 189/2013/G.EDN/TVM DATED 19.06.2013.
- EXT P5 : TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE RESPONDENT FOR THE YEAR 2015-16.
- EXT P6 : TRUE COPY OF THE LIST SHOWING THE STUDENTS STRENGTH OF THE PETITIONER'S SCHOOL.
- EXT P7 : TRUE COPY OF THE LIST OF TEACHING STAFFS IN THE PETITIONER'S SCHOOL.
- EXT P8 : TRUE COPY OF THE LIST SHOWING THE CLASS ROOMS IN THE SCHOOL.
- EXT P9 : TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE RESPONDENT DATED 16.02.2015.
- EXT P10 : TRUE COPY OF THE ORDER IN IA.NO.5036/2013 IN WP(C).NO.33237/2011 OF THE HON'BLE HIGH COURT OF KERALA DATED 12.04.2013.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 5675 of 2015

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Dated, this the 5th day of March, 2015

JUDGMENT

The petitioner school is aggrieved of the delay in considering Ext.P9 representation preferred by the petitioner for reconsideration of the matter with regard to the affiliation to be given by the respondent CBSE to run the school; it stands rejected for the time being as per Ext.P1, because of the defects pointed out therein. It is stated that the defects have already been cured and the supporting materials have already been furnished.

2. Petitioner school is run by a Trust known as the Kaloor Muslim Jama-ath Educational & Charitable Trust. It is stated that classes are being conducted mainly to impart education to the children belonging to the lower strata of the society, who cannot afford to the huge fees payable to other institutions in the field. The petitioner has got all the infrastructure to start the school, having an extent of 'one' acre of land and buildings at Kaloor. With intent to have further development, the petitioner has already secured 2.14 acres of land nearly ½ kms. away from the school campus. It is

stated that the petitioner school is having as many as 27 teaching staff and 11 non-teaching staff and is owning two buses for the safe conveyance of children and the teaching staff. The infrastructure includes buildings, laboratory, library, playground and such other facilities. With intent to obtain affiliation, necessary application was filed before the respondent; 525 students are pursuing studies in various standards as evident from Ext. P6. The application was supported by Ext. P4 NOC issued by the State Government. By virtue of the relevant guidelines issued by the CBSE, if the school is situated in a place where the population is more than 15 lakhs, the required extent of land is only 'one' acre, which requirement stands satisfied by the petitioner. But the application preferred by the petitioner was rejected, as per Ext. P1, stating that no material was produced by the petitioner to establish the population strength of 15 lakhs. The petitioner moved the authorities of the Corporation of Kochi and has obtained Ext. P2 certificate from the Mayor, whereby it is certified that the population strength of Kochi city is more than 16 lakhs. The said certificate along with all other relevant testimonials have been retransmitted to the respondent Board

along with Ext. P9 representation. The delay in considering the same and conducting spot inspection to ascertain the credentials of the petitioner, adversely affects the rights and interests of the children, particularly in respect of the next academic year, which will start within no time.

3. Heard the learned standing counsel for the respondent Board as well.

4. It is brought to the notice of this Court that, pursuant to the application preferred by the petitioner, though the same stands rejected as per Ext. P1, no spot inspection was conducted by the authorities of the respondent Board. The penultimate paragraph of Ext. P1 enables the petitioner to submit representation to have the application reconsidered (if such an application is filed within three months), also granting liberty to apply afresh for the next session. The only shortcoming pointed out is, as to the inadequacy of the land in question, with reference to the population, which prima facie stands cured on production of Ext. P2 certificate.

5. After considering the nature of the Institution and the plight of the students concerned, this Court finds it fit and proper to cause the application reconsidered by the respondent Board.

Accordingly, there will be a direction to the respondent to consider the application preferred by the petitioner (which is the subject matter of Ext. P1) along with Ext. P9 representation and such other relevant materials stated as furnished, and conduct a spot inspection to assess the credentials of the petitioner, particularly with regard to the infrastructure immediately. This shall be taking into account of the fact that the delay, if any, in this regard, may adversely affect the rights and interests of the poor children, who are pursuing the studies in the school and aspire/eligible to be promoted to the next class. The proceedings as above shall be finalized, as expeditiously as possible, at any rate before the commencement of the academic year 2014 - '15.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the respondent for further steps.

The Writ Petition stands disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd