

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.26813 of 2015
and
M.P.Nos.1 and 2 of 2015

St.Charles School,
Yercaud Taluk,
Salem District,
Tamil Nadu 636 001.
Represented by its Provincial Supervisor,
Sr.Virgy,
D/o.Mariasalath. Petitioner

- Vs -

The Central Board of Secondary Education,
Shiksha Kendra,
Represented by its Assistant Secretary(AFF),
No.2, Community Centre,
Preet Vihar,
New Delhi - 110 301. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by Respondent in No.CBSE/Aff./MS-00462-1314/917535 dated 13.08.2015 and to quash the same and consequently directing the Respondent Board to grant recognition for Middle Class Syllabus by granting affiliation to the Petitioner School under the provisions of Affiliation Bye-laws of Central Board of Secondary Education, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.G.Nagarajan, CBSE

O R D E R

Heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents.

2. The petitioner- school which is a minority one, has been knocking the doors of the respondent at least from the year 2012 onwards seeking affiliation. Admittedly, it is having recognition with the Government of Tamil Nadu under the State Board from the first standard to fifth standard. The petitioner sought for affiliation for the Middle school viz., VI to VIII standards. The request made was not considered by the respondent pointing out certain deficiencies. The petitioner after allegedly complying with the said conditions and by making payment of a sum of Rs.50,000/- has once again requested for affiliation. Thereafter, an inspection was made by the inspection committee on 03.09.2014, as per the proceeding dated 09.07.2014. The further defects which were pointed out were said to be complied with by the petitioner as per the compliance report dated 20.11.2014. Thereafter, impugned order was passed on 13.08.2015 which reads as under:

"The above said school had applied for Middle Class Syllabus vide Registration No.MS-00462-1314. Later, the school has remitted balance fee of Rs.50,000/- to consider its application for secondary level.

1.School has submitted Recognition Certificate from Class LKG to V instead of upto Class VIII as School as applied for Secondary level Affiliation.

2. The Recognition Certificate has been issued in favour of St.Charles Nursery and Primary School whereas as per application form,school's name has been mentioned as St.Charles school.

3. The Inspection Committee has reported for consideration under switch over category it means school is running state board classes.

4.School has also not produced any evidence to the effect that the school had intimated to the concerned Education department of the state about the application made to CBSE for seeking affiliation.

5.The school has not furnished an affidavit duly sworn in before a First Class Magistrate and further attestation by the President or Secretary of the society/Trust running the school stating that the "Society/Trust is of Non-Proprietary Character" in nature.

6. 01 Teacher is not qualified whereas only trained and qualified teachers are required to be appointed, as per norms.

The Hon'ble High Court of Madras directed the CBSE to pass an appropriate order on the rectification report dated 20.11.2014 in which the State Government was informed by school and only the inspection carried out by Chief Education Officer cannot be treated as NOC/Recognition Letter upto Class VIII issued by State Education Department.

The School could not submit NOC/Recognition Letter upto Class VIII issued by the State Education Department till date which is one of the mandatory condition as laid down in Affiliation Bye Laws to be considered for affiliation process hence, the application of the school cannot be processed further, hence, rejected by the Board for the Academic Session 2015-16. The school is required to remove the above shortcoming and apply afresh online with requisite fee to reconsider its case for affiliation."

3. In the present Writ Petition, the learned counsel for the petitioner has confined himself to the first ground viz., the deficiency to the effect that "School has submitted Recognition Certificate from Class LKG to V instead of upto Class VIII as School as applied for Secondary level Affiliation".

4. The learned counsel for the petitioner has made only one submission, i.e. as per the amendment to Rule 3.3(I) Chapter II, what is required is a formal prior recognition of the State/U.T. Government and nothing more. The petitioner has produced formal recognition certificate from L.K.G. to V, which is sufficient and he prays to allow this Writ Petition.

5. The learned counsel for the respondent has submitted that even for having not produced the formal prior recognition upto eighth standard, the request of the petitioner cannot be considered. The petitioner has to comply with other conditions for which applications have been rejected.

6. The only issue is as to whether the formal prior recognition produced by the petitioner for LKG to V standard would be sufficient as against the recognition sought for by the respondents till 8th standard. The rule clearly indicates that what is required from the school is only formal prior recognition. Admittedly, the petitioner has produced the same. Though, what the petitioner seeks is a provisional affiliation for the middle school, it cannot be made to seek a formal prior recognition from sixth to eighth standard. Admittedly, the petitioner is having the curriculum of CBSE and it is also the new school starting from the said class for the first time, after making application to the respondents.

7. Thus, considering the above, the impugned order in far as the condition required by the petitioner to produce the recognition upto class VIII from the State Educational Department is hereby set aside by making it clear that the formal prior recognition from LKG to V standard would be sufficient.

8. Accordingly, this Writ Petition is disposed of. However, it is made clear that the petitioner has to comply with other conditions imposed by the respondent. The petitioner will have to show the compliance within a period of two weeks from the

date of receipt of a copy of this order and based upon the same appropriate orders would be passed by the respondent within a period of four weeks thereafter. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arr

To

The Central Board of Secondary Education,
Shiksha Kendra,
Represented by its Assistant Secretary(AFF),
No.2, Community Centre,
Preet Vihar,
New Delhi - 110 301.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.59399
+1cc to Mr.G.Nagarajan, Advocate, S.R.No.59379

W.P.No.26813 of 2015
and
M.P.Nos.1 and 2 of 2015

EV(CO)
CA(19/11/2015)

सत्यमेव जयते

WEB COPY