

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31127 of 2015

Siddhartha Senior Secondary School,
Rep. By its Correspondent,
R.P.Ulaganambi

... Petitioner

Vs.

1 Central Board of Secondary Education (CBSE),
Rep. its Secretary
"Shiksha Kendra"
No.2, Community Centre,
Preet Vihar,
Delhi-110 301.

2 The Asst.Secretary (Affiliation),
Central Board of Secondary Education (CBSE),
"Shiksha Kendra"
No.2, Community Centre,
Preet Vihar,
Delhi-110 301.

3 The Regional Officer
Central Board of Secondary Education (CBSE),
Regional Office,
New No.3 (Old No.1630-A),
'J' Block, 16th Main Road,
Chennai-40.

4 The Inspection Committee,
Rep. by its Convenor,
Central Board of Secondary Education (CBSE),
"Shiksha Kendra"
No.2, Community Centre,
Preet Vihar,
Delhi-110 301.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in No.CBSE/AFF/1930088/2015/ 908345 dated 28.07.2015 on the file of the 1st Respondent signed by the 2nd Respondents 1 and 2 to

restore the Boards Affiliation granted to the petitioner School by granting adequate time to the petitioner to rectify the deficiency if any.

For Petitioner : Mr.R.Muthukumarasamy
Senior Counsel
Assisted by
Mr.R.Neelakandan
For Respondents : Mr.G.Nagarajan

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that the School namely, Siddhartha Senior Secondary School was started under Central Board of Secondary Education (CBSE) in the year 1981 under the management of Peoples' Progressive Society and was also affiliated to the first respondent board. The school was originally running in a premises situated in Bye-pass Road, Vellore and subsequently, the management of the petitioner School was transferred to the Trust formed by the deponent of the affidavit for Public Charitable Objects primarily for Education and a Trust deed dated 21.02.2007 was also registered as Document No.399 of 2007 on the file of the Joint Sub-Registrar II, Vellore. The School was shifted to the present premises at No.30, Vasantham Nagar, Phase III, TNHB, Sathuvachari, Vellore - 9 with prior intimation to the first respondent.

3.The petitioner would further state that in the year 2009, a request was made to the first respondent for change of venue and for renewal of permanent affiliation and nearly after a year, the first respondent called upon the petitioner to submit the relevant documents and accordingly, all the documents were furnished. However, to the shock and surprise of the first respondent vide proceedings dated 11.08.2011 had informed the petitioner that a decision has been taken to withdraw the affiliation granted to the school for Secondary/ Senior Secondary level and it is further indicated that the students of the classes IX/X/XI/XII of the School will be allowed to appear in the Board's ensuing examinations for the year 2012-13. The petitioner aggrieved by the said order, filed an appeal to the Chairman of the first respondent on 12.09.2011 and prayed for renewal of affiliation and it was rejected on 21.11.2012 stating that renewal of affiliation is not permissible as per Board rules.

4.The petitioner had also submitted applications dated 12.10.2012 and 14.12.2012 praying for restoration of provisional affiliation and accordingly, an Inspection Committee was appointed by the first respondent and inspection was conducted on 25.06.2013 and subsequently, the petitioner received a communication dated 07.12.2013 informing that their application for restoration of provisional affiliation has been rejected. The said order was put to challenge in W.P.Nos.442 of 2014 and this Court vide order dated 19.11.2014, had disposed of the writ petition as follows:

"8.Therefore, the writ petition is disposed of, directing the petitioner to submit within two weeks, of receipt of a copy of this order, objections to the findings of the Inspection Committee along with necessary documents and photographs in respect of their claim. Within a period of four weeks of receipt of the submission of the objections along with the necessary documents, the respondents shall arrange to have an inspection conducted. If the report of the Inspection Committee is against the interest of the petitioner, the respondents shall furnish a copy of the report of the Inspection Committee to the petitioner and give them one more opportunity and thereafter pass appropriate orders, in accordance with law. The petitioner shall also pay necessary inspection fees. No costs. Connected miscellaneous petitions are closed."

5.The petitioner would state that it had complied with all the deficiencies/ defects pointed out and was expecting favourable orders and once again like the thunder from blue, the impugned communication has been sent by the first respondent, rejecting the request for restoration of provisional affiliation of the School and challenging the legality of the order, the present writ petition has been filed.

6.Mr.R.Muthukumarasamy, learned Senior Counsel assisted by Mr.R.Neelakandan, learned counsel appearing for the petitioner has drawn the attention of this Court to the order dated 19.11.2014 made in W.P.No.442 of 2014 and would submit that as per the operative portion of the order, the respondents shall make arrangements to have inspection conducted and if the report of the Inspection Committee is against the interest of the petitioner, the respondents shall furnish a copy of the report of the Inspection Committee to the petitioner so as

to enable the petitioner to respond to the same and further direction was issued to consider the same and pass appropriate orders in accordance with law. In gross violation of the said judgment, the impugned order came to be passed and prays for interference.

7.Per contra, Mr.G.Nagarajan, learned Standing Counsel appearing for the respondents 1 to 4 has invited the attention of this Court to the counter affidavit and would submit that, during inspection, it was found that the deficiencies pointed out have not been rectified and therefore, the impugned order came to be passed and prays for dismissal of the writ petition.

8.In response to the same, the learned Senior Counsel assisted by Mr.R.Neelakandan, learned counsel appearing for the petitioner would submit that originally, deficiencies pointed out were something else and new set of deficiencies have been pointed out as per the impugned proceedings and unless and until the inspection report is furnished with opportunity to respond to the same, the impugned order cannot be sustained.

9.This Court has carefully considered the rival submissions and also perused the materials placed before it.

10.This Court, in the earlier round of litigation in W.P.No.442 of 2014, vide order dated 19.11.2014, has given certain directions which includes, the furnishing of the copy of the report of the Inspection Committee, if it is adverse to the interest of the petitioner. A perusal of the impugned proceedings would disclose that copy of the Inspection Committee report has not been furnished to the petitioner, though reasons have been assigned based on the said inspection report.

11.Therefore, in the light of the above facts and circumstances, this Court directs the second respondent to furnish copy of the Inspection Committee report to the petitioner within a period of two weeks from the date of receipt of a copy of this order and the petitioner on receipt of the same, is directed to offer its response/ comments within a further period of two weeks thereafter and the first respondent on receipt of the same, is directed to consider the same, on merits and in accordance with law and pass orders, within a further period of four weeks thereafter.

12.The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1 The Secretary
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"Shiksha Kendra"
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+1 cc to Mr.R.Neelakandan Advocate sr.33568

+1 cc to Mr.G.Nagarajan Advocate sr.33635

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