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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 927/2016 & CM APPL. 4038/2016

PRAKASH PUNJ VIDYA SADAN SCHOOL Petitioner

Through **Mr. R.M. Sinha with Mr. Abhishal
Srivastava, Advocates**

versus

DIRECTORATE OF EDUCATION Respondent

Through **Ms. Sahila Lamba, Advocate**

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Date of Decision: 9th February, 2016.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed seeking quashing of the order dated 16th December, 2015 whereby, according to the petitioner, recognition granted to the petitioner-school has been withdrawn by the respondent. Petitioner also seeks quashing of the letter dated 11th January, 2016 whereby a direction was issued by respondent to petitioner to provide a list of students studying in the petitioner-school in the Session 2015-16 so that the students may be shifted to another nearby school.

2. It has been averred in the present writ petition that the impugned order dated 16th December, 2015 is in essence an ex-parte order as documents submitted by the petitioner were not considered by the respondent.

3. Mr. R.M. Sinha, learned counsel for petitioner-school submits that the impugned order is also in violation of Rule 15 of the Delhi Right of Children to Free and Compulsory Education Rules, 2011 [for short “Rules, 2011”]. He, in particular, lays emphasis on Rule 15(1)(b). The said Rule is reproduced hereinbelow:-

“15. Withdrawal of recognition to school

(1) Where the concerned District Education Officer on his own motion, or on any representation received from any person, has reason to believe, to be recorded in writing, that a school recognised under rule 14, has violated one or more of the conditions for grant of recognition or has failed to fulfil the norms and standards specified in the Schedule, the said officer shall act in the following manner:-

xxxx xxxx xxxx xxxx

(b) In case the explanation is not in conformity with the norms and standards as specified in the Schedule or no explanation is received within the stipulated time period, the concerned District Education Officer may cause an inspection of the school, to be conducted by a Committee of three to five members which shall make due inquiry and submit its report, along with its recommendations for continuation of recognition or its withdrawal, to the Director of Education who may pass an order for continuation of recognition or withdrawal, as the case may be:”

(emphasis supplied)

4. On the other hand, Ms. Sahila Lamba, learned counsel for respondent states that the present case is not a case of 'withdrawal of recognition' but a case of 'non-extension of recognition'. Consequently, according to her, Rule 15 of Rules, 2011 is not attracted to the facts of the present case.

5. Ms. Lamba further states that though ample opportunity was given to the petitioner-school to produce and file a reply or furnish documents, yet neither a reply nor any document was filed by the petitioner.

6. Ms. Lamba lastly states that in view of the serious deficiencies found, petitioner is not entitled to any relief.

7. In rejoinder, Mr. R.M. Sinha submits that case of 'non-extension of recognition' is at par with a case of 'withdrawal of recognition'. According to him, the impugned order itself states that petitioner's application for further extension has been rejected.

8. Having heard learned counsel for parties, this Court is of the view that it is first essential to outline certain basic facts.

9. On 7th May, 2015, Directorate of Education had asked for certain documents from the petitioner-school. As no document was furnished, on 4th August, 2015 respondent issued a show cause notice to the petitioner. In the said show cause notice, seven days time was given to the petitioner to file a reply.

10. On 25th August, 2015, petitioner sought more time to file documents. However, as neither a reply nor any document was furnished by the petitioner-school, respondent passed the impugned order dated 16th December, 2015. Since both sides have extensively relied upon the impugned order, the same is reproduced hereinbelow in its entirety:-

**“GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
OLD SECTT. – DELHI
(ACT-I BRANCH)**

No. DE. 15/Act-I/PPVS/East/2015/5248-5249 Dated : 16/12/15

Whereas, Prakash Punj Vidya Sadan, 2291, Gali No. 3,4, Main Road, Bihari Colony, Shahdara, Delhi-110032 was granted provisional recognition under RTE Act, 2009 and Delhi Right to Education Rules 2011 amended up to date, upto Elementary level vide letter No DE/15/Act-I/RTE/Rec./PPVS/East/2013/11178 dated 30/09/2013 for a period of one year w.e.f. 01/04/2013 to 31/03/2014 subject to fulfilment of the conditions mentioned in provisional recognition letter dated 30/09/2013.

And whereas, the provisional recognition has been extended up-to Sept. 2015 vide circular No SE 15(166)/Act-I/Policy/Land Norms/2013/28190-98 dated 05/01/2015.

And whereas, the inspection of the school was conducted by the inspection team of district authority on 31/01/2015 and found the following deficiencies:-

- (a) The land area is less than the prescribed norms. The land is 600 yards out of which some shops are rented out and are not in possession of the school.*
- (b) Overaged staff is being appointed like Radha Sharma,*

Kamlesh Yadav.

- (c) The service record of the teachers was not available.*
- (d) Copies of bill, ECS list/Cheques etc were not available.*
- (e) Health Certificate was not available.*
- (f) Copy of certificate from concerned authority of DDA that it has applied for consideration with reference to Zonal development plan and DDA is considering its application is not available.*
- (g) Copy of Certificate from SDM/ADM/Forest Department that the applicant school is not occupying Government land, Gram Sabha Land and or protected Ridge land is not available.*
- (h) The details of expenditure and vouchers were not available.*
- (i) Undertaking that, The School shall faithfully comply with all the Relevant provision of DSEAR, 1973 as amended from time to time not available.*
- (j) Undertaking that the school shall maintain the standards and norms of the school as specified in section 19 of the Right to Free and Compulsory Act 2009 and the instruction/orders issued from time to time not available.*

And Whereas, on the recommendation of inspection team and after affording a reasonable opportunity to the school vide letter dated 07/05/2015 and Show Cause Notice dated 04/08/2015, DDE (East) has recommended to reject the case for further extension of provisional recognition under RTE Act, 2009 on the aforesaid grounds and due to failure to remove the deficiencies.

And whereas, as per clause 14(1)(f) of Delhi Right to Education Rules, 2011, the school is required to furnish such reports and information as may be required from time to time and complies with such instructions of Government and Local Authority as may be issued to secure the continued fulfilment of condition of recognition or the removal of the deficiencies of working of the school.

Further, Rule 14(9) of the amended Rules 2013 provides that the school which are granted certificate in Form-II or IIA shall fulfil the conditions laid down in the certificate of recognition and order/instructions issued under the DSEAR,

1973 made there under except for the condition of grant of essentiality certificate within a period of one year as such further period as may be notified.

AND Whereas, the management of above said school has violated the provisions of Rule 14(1)(f) of Notification dated 23/11/2011 and 4(g) of Notification dated 25/03/2013 by not furnishing the reply/required documents therefore the provisional recognition of the school can't be continued under these circumstances.

Now therefore, the case for further extension of provisional recognition granted in respect of Prakash Punj Vidya Sadan, 2291, Glai No. 3,4, Main Road, Bihari Colony, Shahdara, Delhi-110032 upto Elementary level under RTE Act, 2009 is hereby rejected for the reasons mentioned in the preceding para.

Further, the school is directed not to take fresh admission henceforth.

This issues with the approval of the Competent Authority.”

(emphasis supplied)

11. On 17th December, 2015, petitioner furnished the documents in response to the initial show cause notice. The irony of furnishing documents one day after the impugned order was passed is not lost on this Court.

12. In any event, this Court is of the view that the allegations in the impugned order are very serious and since petitioner did not file any response or document for nearly seven months, respondent rightly passed the impugned order.

13. It is also pertinent to mention that response to most of the queries was in exclusive possession of the petitioner. Consequently, the plea of violation of principles of natural justice is contrary to facts.

14. This Court is further of the opinion that Rule 15 of Rules, 2011 relied upon by the petitioner is not applicable to the present case as it is a case of 'non-extension of recognition' and not a case of 'withdrawal of recognition'. The impugned order repeatedly emphasis that for the reasons stated therein petitioner's case for extension of provisional recognition is rejected. In fact, the submission that the case of 'non-extension' and 'withdrawal of extension' are at par, is without any legal basis and cannot be accepted.

15. Consequently, present writ petition and application are dismissed but with no order as to costs.

MANMOHAN, J

FEBRUARY 09, 2016

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