

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2787 of 2017

1. The Managing Committee Of Late Man Turna Kuar Sanskrit Prathmik Sah High School, Sonepura, Bhojpur, through its Secretary, Sri Parma Nand Jha Son of Sri Raj Kumar Ojha, Resident of Village-Majhawalia, P.O. Karnamepur, P.S.Sahpur, District Bhojpur.
2. The Managing Committee of Smt. Talkeshwari, Smiriti Prathmik-Sah Sanskrit High School, Kurmuri Bhojpur, through its Secretary, Smt. Ram Moti Devi Wife of Sri Awadhesh Kishore Singh, Resident of Village & P.O. Kurmuri, P.S. Tarari, District Bhojpur.
3. The Managing Committee of Sri Ram Prasad Singh Sanskrit Prathmik-cum High School, Barad-Parwa (Dulaur), Bhojpur through-its Secretary, Sri Kapil Deo Singh Son of Late Ram Ratan Singh, Resident of Village & P.O.-Bard-Parwa P.S. Jagdishpur, District Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Secondary Education, Government of Bihar, Patna.
3. The Joint Secretary, Secondary Education, Government of Bihar, Patna.
4. The Special Director (Secondary Education), Government of Bihar, Patna.
5. The D.E.O. Bhojpur
6. The Bihar Sanskrit Siksha Board, through its Secretary, Bihar, Sanskrit Siksha Board, Patna.
7. The Chairman, Bihar Sanskrit Board, Patna.
8. Te Secretary, Bihar Sanskrit Siksha Board, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shree Kant Pandey
For the Respondent/s : Mr. MADANJEET SINGH-GP20

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

8 13-10-2017 Heard learned counsel for the parties.

2. There are three petitioners, which are Managing Committees of three Sanskrit Prathmik Schools, who are seeking direction to the authorities to grant the said Schools, recognition with financial aid.



3. It is their grievance that the Bihar Sanskrit Siksha Board had recommended to the State Government for granting these Schools recognition with financial aid, with 60 other Schools in January, 2015. The State Government, based on the said recommendation granted recognition with the financial aid in favour of most of the Schools but excluded these petitioners, by resolution of the Education Department, dated 08.09.2015. It is the case of the petitioners that as a matter of fact, the State Government allowed recognition and financial aid in favour of altogether 69 Sanskrit Primary Schools, i.e., more number of Schools than what was recommended by the Bihar Sanskrit Siksha Board through letter, dated 16.01.2015. It is, accordingly, the case of the petitioners that they have been discriminated against by excluding them from granting benefit of financial aid and recognition.

4. When the matter was taken on 11.08.2017, this Court taking serious note of the fact that the matter had remained pending in the Education Department for years together, particularly in respect of the three Schools had directed the Chief Secretary of Bihar to look into the matter himself and initiate disciplinary proceedings against the erring officials found responsible for the unexplained delay in dealing with the



matters in respect of these Schools. The Chief Secretary was also asked to file a counter affidavit, which has been filed.

It has been stated in the counter affidavit that the Education Department, Government of Bihar in exercise of powers conferred under the provisions of Section 22 of the Bihar Sanskrit Siksha Board Act, 1981 has framed Bihar Non-Government Sanskrit Schools (Recognition and Condition) Rules, 1993, for the purpose of considering recognition of Non-Government Sanskrit Schools upto Madhyama standard, which came into operation with effect from 18.06.1994, being the date of the notification of the said Rules. Rule 4 of the Rules lays down terms and conditions for establishment of Sanskrit Schools whereas Rule 5 of the said Rules provides for the procedure for grant of recognition. Referring to Sub-Rule (2) of Rule 5 of the said Rules, it is the stand of the State Government that it is the District Magistrate of the concerned District, who is required to get inspection of the School conducted and accordingly submit the inspection report along with his opinion to the Bihar Sanskrit Siksha Board.

5. It is the case of the State-Respondents that without any report of the District Magistrate as contemplated under Sub Rule (2) of Rule 5, the Board had recommended to the State



Government, seeking prior approval for grant of recognition with financial aid. It is stated in the counter affidavit that recently, in accordance with the norms laid down under Sub Rule (2) of Rule 5, the Chairman of the Board requested the District Magistrate, Bhojpur to do on the spot enquiry and furnish its opinion in respect of the present status of these Schools. The District Magistrate has got the enquiry conducted and has submitted a report on 27.08.2017, which has been brought on record by way of Annexure-R/3 to the said counter affidavit. In the said report certain deficiencies have been pointed out in respect of these Schools.

6. It is, accordingly, the stand of the Chief Secretary that the Schools do not fulfill the requisite criteria in terms of the land etc. It is mentioned in the report, which has been taken note of in the counter affidavit filed that the Schools do not have sufficient Class Rooms, and Office Room. The Schools do not have Library, Books, Common Room, Toilet, Bench-Desk, according to the report.

7. Learned counsel appearing on behalf of the petitioners has submitted that in similar circumstance other Schools, which were recommended by the Board for grant of prior approval of recognition have been granted approval and subsequently



recognition also. He has submitted referring to the said list sent by the Board on 16.01.2015 that against the Schools falling at serial Nos. 32,39 and 42, remark column is empty, it is not known under what circumstance, the Department granted approval of recognition of more number of Schools than recommended by the Board and excluded these three Schools from the said privilege, he contends. He submits that the State-Respondents are acting arbitrarily and discriminating the petitioners as against others, who have been granted recognition though the petitioners had better right to get such recognition.

8. The Court cannot issue a direction to the State-Respondents to grant recognition on the basis that other Schools have been granted recognition in breach of the mandatory statutory provisions. An illegality cannot be allowed to perpetuate under the orders of this Court.

9. However, since specific stand is being taken on behalf of the petitioners of discrimination, I consider it appropriate to direct the Principal Secretary, Education Department, Government of Bihar, to examine as to in what circumstance, other 69 Schools have been granted recognition through resolution, dated 08.09.2015. The Principal Secretary, Education Department, will be obliged to examine each and



every case of the Schools, who have been granted recognition and if it transpires that recognition has been granted in teeth of the statutory provisions, he shall be required to proceed accordingly, in accordance with law, for cancellation of recognition in favour of such Schools, where recognition is found to have been granted illegally. It is also indicated that if the Principal Secretary, Education Department decides to proceed for cancellation of recognition of any Sanskrit Schools which have been granted approval for recognition through resolution, dated 08.09.2015, he should take care that the same is done, in accordance with the provisions of law and in compliance of the principles of natural justice.

10. It goes without saying that if the petitioners are able to satisfy that they fulfill the requisite criteria for grant of recognition in future, the respondents shall be required to consider their cases for grant of recognition afresh, in accordance with law.

11. This application is disposed of accordingly.

(Chakradhari Sharan Singh, J)

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