



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.(MD)No. 5189 of 2017

and

WMP(MD).Nos.4180 and 4181 of 2017

Ponnaiyah Ramajayam Institute of
Science and Technology Trust,
Rep. By its Managing Trustee,
Mr.P.Murugesan,
35 & 36 2nd street,
Natarajapuram North,
Thanjavur - 613 007.

...Petitioner

-Vs-

The Assistant Secretary (AFF),
Central Board of Secondary Education,
"SHIKSHA KENDRA".
2, Community Centre,
Preet Vihar, Delhi 110 301.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in and by its proceedings in No. CBSE/ AFF/ MS -00175 -1516/2015/877547 dated 22.05.2015 and quash the same and consequently direct the respondent to grant the approval without insisting the NOC from the State Government Education Department by considering petitioner representation dated 23.02.2017.

For Petitioner : Mr.Issac Mohanlal Senior Counsel
for Mr.K.K.Ramakrishnan

For Respondent : Mr.S.Kadarkarai
for Mr.G.Nagarajan

ORDER

The petition is filed for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in and by its proceedings in No. CBSE/ AFF/ MS -00175 -1516/2015/877547 dated 22.05.2015 and quash the same and consequently direct the respondent to grant the approval without insisting the NOC from the State Government based on his representation dated 23.02.2017.



2. By consent of both parties the writ petition is taken up for final disposal at the stage of admission itself.

3. Heard Mr. Issac Mohanlal, learned senior counsel for the learned Counsel for the petitioner and Mr. S. Kadarkarai learned counsel appearing for the respondents and perused the records.

4. The learned senior counsel would submit that subsequent to the circular issued by the respondent dated 08.07.2013, for establishment of a new school under Central Board of Secondary Education, No objection certificate from the State Government is not required. It is further submitted that the submission of application has to be intimated to the Educational Authorities of the concerned State Government and if there is an objection from the State Government, the applicant is required to produce No objection certificate from the State Government.

5. The learned Senior Counsel would further submit that in the case of the petitioner, the application was submitted on 30.09.2013 and the same was intimated to the State Government and there is no objection from the State Government and therefore requirement of No objection certificate is not necessary in this case.

6. It is the further case of the petitioner that the said application was returned on the grounds for non production of No objection certificate from the State Government and for the payment to the staff through Electronic Clearance System (ECS). He would further submit that the second condition had already been complied with by the petitioner.

7. The learned counsel for the respondent contended that production of No objection certificate from the State Government is necessary, when there is an objection from the State Government and in all other cases, if the applicant produces the proof for having informed the State Government about submission of such application, the respondent is ready to consider the same.

8. The learned Counsel also produced the circular dated 29.12.2016 which reads as follows:

AMENDMENT IN AFFILIATION BYE -LAWS OF THE BOARD - RULE
3, 3(I) CHAPTER II -REG

<https://hcservices.ecourts.gov.in/hcservices/>

Consequent upon the recommendations of Affiliation Committee made at its meeting held on 13.12.2016 and ratified

by the Governing Body in its meeting held on 20.12.2016, the following amendments in Affiliation byelaws has been made by the Board for seeking provisional affiliation by the Schools.

Existing Rule 3.3(i) Chapter II	Amended Rule 3.3 (i) Chapter II
The school seeking provisional affiliation with the Board must have formal prior recognition of the State/U.T.Govt, and also to produce evidence to this effect that the applicant school had intimated to the concerned Education Department of the State about the application made to CBSE for seeking affiliation with the Board, In case, the Board receives any objection during the process of application of the school, the Board may ask the concerned school to produce the No Objection Certificate from the State Government of otherwise it would be assumed State/UT Government has no objection.	The school seeking provisional affiliation with the Board shall submit the following documents. (a) Formal prior Recognition letter from concerned State Education Department I.e Recognition for classes I to V requires for Middle Class Approval and recognition for classes I to VII required for Provisional Affiliation upto Secondary Level AND (b) No objection Certificate to the effect that State Government has no objection to the affiliation of the school with CBSE No Objection Certificate once issued to any school will be considered at par even if it prescribed a specific period and /or level unless it is withdrawn. Condition will not be applicable to categorise of school stated at Rule 3.1(i) to (iv) Affiliation Bye-laws of the Board

9. Considering the submission of the learned Counsel for the respondent and the circular dated 29.12.2016, the order impugned in this writ petition is set aside and the writ petition is allowed. The matter is remanded back to the Respondent. The Respondent shall consider the application of the petitioner dated 30.09.2013 in the light of the circular date 29.12.2016 and pass orders as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True Copy/



To

The Assistant Secretary (AFF),
Central Board of Secondary Education,
"SHIKSHA KENDRA".

2, Community Centre, Preet Vihar, Delhi 110 301.

+1cc to M/S.K.K.Ramakrishnan, Advocate SR.No. 71256

+1cc to M/S.G.Nagarajan, Advocate SR.No. 71005

W.P. (MD) No. 5189 of 2017

dsk

JM/SV MMS/SAR 2/23.08.2017/4P/4C