

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P.No.17946 of 2015
and W.M.P.Nos.1 & 3 of 2015

Sri Nandhanam International School,
Molagarampatti,
Tirupattur - 635 601,
Vellore District,
rep. by its Manager P.Haridoss .. Petitioner

vs

The Central Board of Secondary Education,
Shiksha Kendra,
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 a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the Respondent in No.CBSE/AFF./SL-01979-1516/2015/872389 dated 15.05.2015 and to quash the same and consequently directing respondent board to grant permanent affiliation in favour of the petitioner school as per the provisions of affiliation by-laws of Central Board of Secondary Education for the academic year 2015-2016, within a time frame to be fixed.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondent : Mr.G.Nagarajan SC

O R D E R

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records in relation to the impugned order passed by the respondent dated 15.05.2015 and to quash the same and consequently, to direct the respondent to grant permanent affiliation in favour of the petitioner's school.

2 The learned counsel appearing for the petitioner states that the petitioner's school was established on

06.06.2012 with Pre KG to VI Standards adopting Central Board of Secondary Education (CBSE) syllabus. It is further submitted that the school has been established by fulfilling the norms and standards with reference to infrastructural and instructional facilities as provided under the regulations.

3 It is further stated that the petitioner was required to obtain affiliation from CBSE on upgradation of school from VIII standard to IX standard and hence, the petitioner has submitted an application to the respondent. It is further stated that the establishment of the school was also duly intimated to the Department of Education with the requisite application for approval under the provisions of RTE Act. It is further stated that the petitioner has also submitted the application seeking "No Objection Certificate" from the Department of Education for getting affiliation from CBSE. However, the application filed by the petitioner was rejected by the impugned order dated 15.05.2015 on the ground that the petitioner has neither submitted the "No Objection Certificate" nor Recognition letter issued by the State Education Department. Challenging the same, the present writ petition has been filed by the petitioner.

4 The petitioner has relied upon the Pre-amended Rule 3.3 Chapter-II of affiliation By-laws and the amended By-laws as per the proceedings dated 08.07.2013. The existing and the amended Rule are as follows:

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/I.T. Govt. Its application either should be forwarded by the State Govt. or there should be a No Objection Certificate to the effect that State Government has no objection to the affiliation of the school with the CBSE. "No Objection Certificate" one issued to any school will be considered at par even if it prescribes a specific period of stage unless it is withdrawn. Condition of submitting a No Objection Certificate will not be applicable to categories 3.1 (i) to (iv)	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 or otherwise it would be assumed that concerned State/U.T. Government has no objection.

5 It is stated by the petitioner that there is no requirement for obtaining 'No Objection Certificate' from the State Government after referring to the amended rules. But, the petitioner has not explained why the prior recognition from the State Government is not required under the existing as well as the amended rule.

6 The respondent has filed a counter affidavit stating that for the purpose of granting provisional affiliation, the petitioner's school must have formal prior recognition of the State. However, it is now admitted that a writ petition in W.P.No.11781 of 2015 has been filed by the petitioner seeking a direction to the State Government to issue recognition to the petitioner's school, so as to enable the petitioner to seek provisional affiliation from the respondent. The affiliation itself was rejected by way of the impugned order. The respondent has further stated that there cannot be a direction directing the respondent board to provide temporary affiliation pending disposal of the other writ petition, that is pending before this Court regarding issuance of prior recognition of the State Government.

7 The learned counsel appearing for the respondent submitted that the amended rule 3.3(I) in Chapter II has now been modified and that the rule which was then prior to the amendment has now been brought back. It was submitted by the learned counsel for the respondent that as per the new rule, which came into effect from 01.01.2017, the petitioner is also required to get "No Objection Certificate" from the State Government. If that is so, the petitioner can also get "No Objection Certificate" from the State Government as well as recognition before approaching the respondent for getting affiliation.

8 By filing the other writ petition, the writ petitioner himself has recognized the statutory requirement of prior recognition from the State Government. When the petitioner does not have recognition from the State Government, the order impugned in this writ petition cannot be faulted. However, considering the fact that the establishment of the school is not disputed, the petitioner is given liberty to approach the respondent as and when the petitioner has obtained the formal prior recognition from the State Government.

9 In the above circumstances, the writ petition is dismissed. The petitioner is at liberty to pursue the State Government for prior recognition and then to respondent for

provisional affiliation. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

bkn/rpl

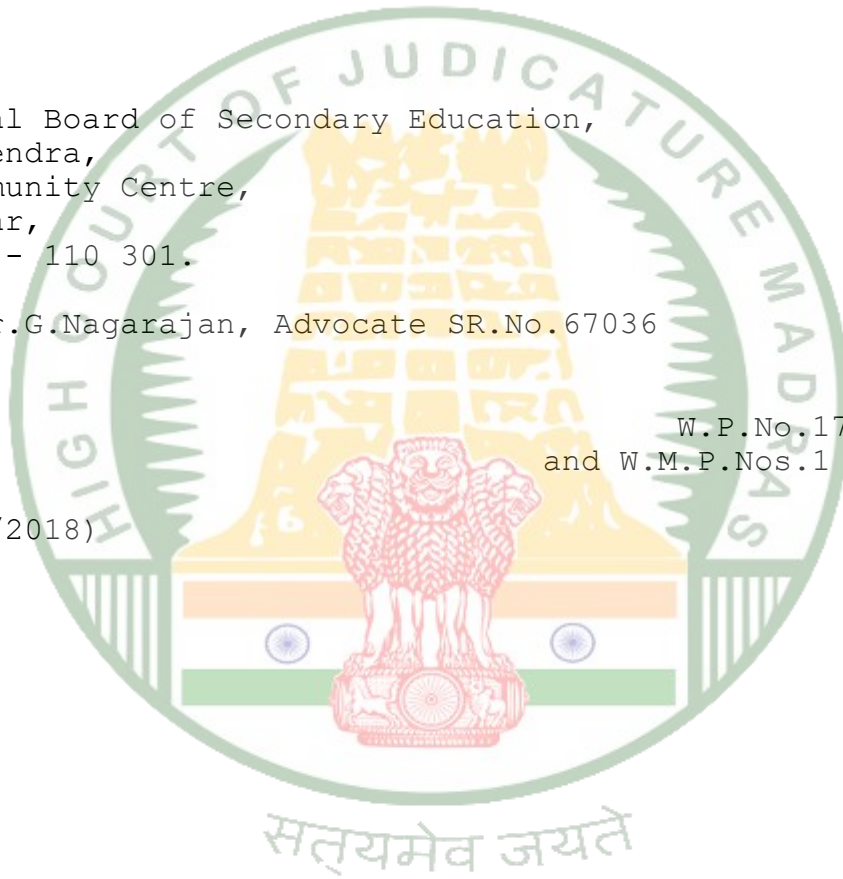
To

The Central Board of Secondary Education,
Shiksha Kendra,
No.2, Community Centre,
Preet Vihar,
New Delhi - 110 301.

+1cc to Mr.G.Nagarajan, Advocate SR.No.67036

W.P.No.17946 of 2015
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GMV (24/10/2018)



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