

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1339 of 2019

In

Civil Writ Jurisdiction Case No.8353 of 2019

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The Central Board of Secondary Education, Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi- 110092, through its Chairman.

... Respondent / Appellant

Versus

1. Holy Cross International School Lekha Nagar, Ashopur, Near DAV School, Cantt. Road, Patna (Bihar)-801503 through its Manager Mayank Paritosh, Son of Shri B.K.Thakur, resident of 1-D, Sneh Plaza, Sardar Patel Path, North S.K. Puri, P.S.-Srikrishna Puri, Boring Road, Patna-800001.
Petitioner/Respondent 1st set
2. The Union of India through the Secretary, Human Resources Department, Government of India, New Delhi.
3. State of Bihar Through the Secretary, Department of Human Resources Development, Patna.

... .. Respondents/ Respondent 2nd set

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Appearance :

For the Appellant/s	:	Mr.Vinay Krishna Tripathy, Advocate
For the School	:	Mr. P. N. Shahi, Sr. Advocate
		Mr. Apurv Harsh, Advocate
For the State	:	Mr. Ashutosh Ranjan Pandey, A.A.G. 15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-02-2020

Re: Interlocutory Application No.2 of 2019:

We have considered the affidavit filed in support of the delay condonation application and we find that sufficient cause has been shown to condone the delay in filing the appeal. The delay is condoned and the appeal shall be treated to be within time.

I.A. No.2 of 2019 stands allowed accordingly.



Re: L.P.A. No.1339 of 2019:

The appeal filed on 15.10.2019 is listed for hearing for the first time today before the Court.

The present appeal has been filed against the order dated 26.7.2019 passed by a learned Single Judge of this Court by which, learned Single Judge has been pleased to allow the writ application and quashed the order disaffiliating the school on wrong appreciation of facts and law.

In relation to a very unfortunate incident which took place on 6th of December, 2017 in the premises of the school, the appellant, i.e. the Central Board of Secondary Education, intends to take strict action against the school, namely, Holy Cross International School, Lekha Nagar, Ashopur and persons manning the same.

It is not in dispute that in-house inquiry conducted by the school led to the finding of dereliction of duty by a male staff member of the school. It is also not in dispute that criminal action against the said employee stands initiated under the provision of POCSO Act. This was, perhaps, also on account of complaint lodged by the Principal of the school. Obviously, the appellant herein is not happy with the action taken by the school for such action to be incomplete or inadequate and desires the matter to be examined further, for unearthing the truth with



regard to complicity of other persons, be it member of the management or staff of the school, as also an outsider.

In this regard, twice notice was issued to the school, pursuant to which order was passed by the Central Board of Secondary Education, New Delhi (hereinafter referred as 'the Board'). Finding the Board/authority not to have complied with the principles of natural justice, such action stands interfered with by the learned Single Judge vide impugned judgment dated 26.07.2019 passed in C.W.J.C. No.8353 of 2019, titled as Holy Cross International School, Lekha Nagar, Ashopur Versus Union of India and ors., reserving liberty to the Board to take an appropriate action in accordance with law, including that based on the report prepared by the functionaries of the State.

In this backdrop, we see no reason to interfere with the impugned order save and except we direct expeditious disposal of such inquiry, which the Board intends to conclude at the earliest.

Learned counsel for the school states that the school, its authorities and also its management have extended support which they shall continue to do so, in an endeavor of early completion of the inquiry. All the materials in their possession shall be submitted to the Board during the course of such



inquiry.

As such, we direct that the inquiry under contemplation be positively concluded within a period of three months.

There is yet another issue and that being affiliation of the school, which the Board for some unexplained reasons has intertwined with the unfortunate incident. According to the Board, the school lacks infrastructure and as such inspection in that regard needs to be carried out for the purpose of continuance of affiliation post 1st of April, 2020.

Learned counsel for the school states that the school shall apply for affiliation within next 15 days, subject to the Board accepting the application, be it through electronic or mode of hard copy.

We see no reason as to why the Board should not open the link for on-line submission of the application and direct it to be so done forthwith, for there is no impediment with regard to the same as we are made to understand.

Decision with regard to affiliation shall positively be taken on or before expiry of the period of affiliation with the Board.

Insofar as inspection is concerned, we direct the



Board to inspect the premises positively within six weeks from today. Subject to the outcome of the inquiry, after complying principle of natural justice, it shall be open for the Board to take such action as they may deemed fit and proper in accordance with law, including granting affiliation to the school. The inquiry be carried out positively within 6 weeks from submission of the application. It goes without saying that adequate opportunity should be afforded to the school to remove the objection or meet with the deficiency which may be pointed out by the Board.

We clarify that the students already admitted during the pendency of the petition, shall continue to carry out with their studies as also appear in the annual examination.

With the aforesaid observation, we dispose of the present appeal.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2020
Transmission Date	NA

