

17.04.2023  
PB  
Sl. No.8.

WPA 7242 of 2008  
with  
CAN 1 of 2009  
CAN 10198 of 2009

Ranisayer Junior High School & Anr.  
Vs.  
The State of West Bengal & Ors.

Mr. Chitta Ranjan Chakraborty,  
Mr. Sumit Banerjee.  
.....for the petitioners.

Mr. Supriyo Chattopadhyay,  
Mr. Gaurav Das.  
.....for the State.

The issue involved in this writ petition relates to extension of recognition which was granted in favour of Ranisayer Hindi Junior High School (hereinafter referred to as the said school) w.e.f. 1<sup>st</sup> May, 2001. It further appears that provisional recognition was granted w.e.f. 1<sup>st</sup> May, 2001 vide recognition memo No.S-Recog/2001/44 dated 4<sup>th</sup> April, 2001 for one year with certain conditions and on fulfilment of such conditions formal recognition was granted in favour of the said school vide Office Order No.S/Recog/2002/285 dated 25<sup>th</sup> June, 2002 for a period of three years. Nothing is on record as on date with regard to extension of recognition of the said

school by issuing order by the competent respondent authority beyond the year 2005.

The issue of extension of recognition vis-à-vis, grant of recognition after expiry of three years period w.e.f. 2002 was considered by the Hon'ble Division Bench along with consideration of recognition of another school namely Rajendra Vidyapith High School and the Hon'ble Division Bench vide judgment dated 21<sup>st</sup> November, 2006 passed following directions:-

*“As against this, the learned counsel for the Board says that the DLIT inspection was taken on 28.8.2000 and the report was signed on 19.9.2001 and, therefore, there was nothing wrong if the facts which took place on 5.9.2000 (the date on which the Sale Deed of the plot was effected in favour of Ranisayer Junior High School) came to mentioned in the report. It is suggested that the learned counsel for the Ranisayer Junior High School also reiterated that there was a building. The learned counsel had to do a lot of acrobatics to support his argument that the building was a pucca building as mentioned in the DLIT report because admittedly the building permission has been applied for only after 2003. The only basis for grant of recognition in favour of Ranisayer Junior High School is that DLIT report which, in our opinion, is far from being satisfactory. Therefore, ultimately the situation which comes is that firstly there has been no scrutiny of the seven reasons given for refusing recognition to Rajendra Vidyapith High School. So also the DLIT report on the basis of which the recognition has been granted to Ranisayer Junior High School is also far from being satisfactory but the learned Judge has not considered the same. However, the fact remains that Ranisayer Junior High School does not have a recognition presently since its recognition has come to an end by 2005. Under the circumstances, it will be better to direct a responsible officer of the State Government which is the ultimate authority to grant the*

*recognition under the rules to inquire afresh into the claim of Rajendra Vidyapith High School and to re-examine the reasons given for rejecting recognition to Rajendra Vidyapith High School. So also an inquiry shall be made as to whether the recognition granted in favour of Ranisayer Junior High School was properly granted or not. After all, the authorities would have to consider as to whether the further recognition has to be granted to Ranisayer Junior High School or not. While doing that exercise, the concerned authority shall also consider as to which school should now continue. A tall claim has been made by Rajendra Vidyapith High School that its school is still running while it has been reiterated both by the Board and the appellant Ranisayer Junior High School that there are no students now in Rajendra Vidyapith High School. It is very difficult for us to reach a finding of facts on the basis of such conflicting claims which, in fact, should have been examined by the learned Single Judge. However, it will be better for some responsible authority in the Education Department, preferably of the Secretary level, to go into these questions and to decide as to whether:-*

*(a) Rajendra Vidyapith High School deserves the recognition or it was Ranisayer Junior High School which deserves the recognition;*

*(b) Whether the recognition granted in favour of Ranisayer Junior High School was in order;*

*(c) Whether Ranisayer Junior High School should be granted extension of the recognition.*

*This exercise shall be completed before the next session begins, that is, before 1<sup>st</sup> of May, 2007, till which day there shall be status quo as of today. A detailed order supported by reasons shall be passed. Needless to mention that if the parties so require, they shall be given an opportunity of hearing and/or presenting documents in support of their claims. With these directions, we dispose of both the appeals, but without any order as to costs."*

Pursuant to such direction passed by the Hon'ble Division Bench as contained in the judgment dated 21<sup>st</sup> November, 2006, the Principal Secretary, School Education Department, Government of West

Bengal, passed an order dated 17<sup>th</sup> April, 2007 whereby contention of the said school authority for extension of recognition beyond the year 2005 was negated and the West Bengal Board of Secondary Education was granted leave to take appropriate steps as per the provision of the statute.

From the submissions made by the learned advocates representing the petitioners as well as the State respondents, it appears that contemporaneously this order of the Principal Secretary dated 17<sup>th</sup> April, 2007 was not communicated to the said school authority which prevented the said school authority to take appropriate steps. In the present writ petition, a co-ordinate Bench directed the State respondents to produce the order of the principal Secretary before the Court which was not timely complied with and for the first time, the order of the Principal Secretary dated 17<sup>th</sup> April, 2007 was produced before this Court on 10<sup>th</sup> April, 2023.

Based on such order of the Principal Secretary dated 17<sup>th</sup> April, 2007, this Court has heard the learned advocates representing the parties and accordingly submissions were made taking into consideration, the contents of such order.

Mr. Chakraborty, learned advocate representing the petitioners has drawn attention of this Court to the

order of the Board dated 6<sup>th</sup> September, 2007 wherein the concerned authority of the Board taking into consideration such order of the Principal Secretary dated 17<sup>th</sup> April, 2007 referred the issue relating to extension of the recognition of the said school to the State Government for reconsideration. After such order was passed by the Board on 6<sup>th</sup> September, 2007 OSD and EO, Deputy Secretary, School Education Department, Government of West Bengal vide memo dated 20<sup>th</sup> December, 2007 intimated to the concerned District Inspector of Schools (SE), Burdwan, that if the said school authority is interested in getting recognition in that event the said school authority may apply afresh by submitting proposal in the prescribed format through proper channel for grant of recognition. These two documents, one dated 20<sup>th</sup> December, 2007 issued by the Deputy Secretary, School Education Department and another dated 6<sup>th</sup> September, 2007 issued by the Board are questioned in this writ petition and it has been submitted on behalf of the petitioners that based on order of status quo passed by the Hon'ble Division Bench as contained in the judgment dated 21<sup>st</sup> November, 2006 the said school is functioning as on date.

Mr. Gaurav Das, learned advocate representing the State respondents has advanced arguments based

on the order of the Principal Secretary dated 17<sup>th</sup> April, 2007 and defended the decisions of the State respondents relating to the extension of recognition vis-à-vis grant of recognition in favour of the said school. It has been submitted that there were certain short-comings with regard to the infrastructure of the said school as a result whereof at the material point of time the decision could not be taken on extension of recognition of the said school.

Having regard to the submissions made on behalf of the respective parties and on perusal of the materials on record including the judgment of the Hon'ble Division Bench dated 26<sup>th</sup> November, 2006, this Court finds that the decision of the Board as contained in memo dated 6<sup>th</sup> September, 2007 relating to extension of recognition of the said school is based on the order of the Principal Secretary dated 17<sup>th</sup> April, 2007 and in subsequent communication dated 20<sup>th</sup> December, 2007, the Deputy Secretary of School Education Department insisted the said school through the concerned District Inspector of Schools to make application afresh for grant of recognition rests on such order of the Principal Secretary dated 17<sup>th</sup> April, 2007.

It is true that the said school authority was not communicated the order dated 17<sup>th</sup> April, 2007 at the

material point of time and it was after the order passed by this Court for the first time placed before this Court on 10<sup>th</sup> April, 2023.

Considering the entire gamut of the issue as elaborated in the preceding paragraphs and taking into consideration the fact as it has been submitted by the learned advocate for the petitioners that the said school is still functioning as on date and there was an order of the status quo as granted by the Hon'ble Division Bench vide judgment dated 21<sup>st</sup> November, 2006 coupled with willingness has also been expressed on behalf of the petitioners to challenge the order of the Principal Secretary dated 17<sup>th</sup> April, 2007, it would be apt to grant opportunity to the said school authority to question the order of the Principal Secretary dated 17<sup>th</sup> April, 2007 on condonation of delay. Accordingly, leave is granted to the said school authority (Ranisayer Junior Hindi High School) to challenge the order of the Principal Secretary, School Education Department, dated 17<sup>th</sup> April, 2007 within a period of six weeks from date and in the event the writ petition is instituted within the aforesaid period point of delay may not be relevant consideration. If such writ petition is filed within time as granted by this Court, the status quo with regard to the functioning of the said school as on date shall continue till the first order

to be passed by the Court on the writ petition to be filed. I hasten to add herein that on this writ petition a co-ordinate Bench passed an interim order on 10<sup>th</sup> July, 2009 to the extent that the teachers who have been appointed in petitioner school on recommendation of the school service commission were directed not to be withdrawn and by subsequent order dated 25<sup>th</sup> January, 2011 another co-ordinate Bench extended the interim order till disposal of this writ petition.

However, it is made clear if the writ petition is not filed within the aforesaid period the order of status quo as granted by this Court shall stand vacated without any reference to this Court.

With the aforesaid direction, the writ petition stands disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, shall be given to the parties upon usual undertakings.

**( Saugata Bhattacharyya, J.)**