

29 19.04.2023  
rkd Ct.15

W.P.A. 15714 of 2018

Ram Rampur Girish Chandra Junior High School  
-vs-  
The State of West Bengal & Ors.

Mr. Pankaj Halder,  
Mr. Samarjit Balial,  
Mr. Sanatan Panja,  
Mr. Tapas Manna

....for the petitioner.

Mr. Tapan Kumar Mukherjee,  
Mr. Ranjan Saha

....for the State.

Ms. Koyeli Bhattacharyya

....for the WBBSE.

The writ petition is presented, *inter alia*,  
praying for grant of recognition in favour of Ram  
Rampur Girish Chandra Junior High School  
(hereinafter referred to as the “said school”) since it  
has been submitted on behalf of the petitioner who  
is Teacher-in-Charge of the said school that  
pursuant to the order dated 18<sup>th</sup> April, 2006 passed  
on the writ petition being WPA 1049 of 2001 only  
three issues can be looked into by the concerned  
authorities before grant of recognition, these are –  
roll strength, sanitation of the school building and  
supply of drinking water to the school.

The attention of this Court has also been  
drawn to the relevant part of the order dated 18<sup>th</sup>  
April, 2006 whereby leave was granted to the  
school authority to improve sanitation and supply

of drinking water and to approach the authorities for taking fresh decision.

In terms of the said order dated 18<sup>th</sup> April, 2006 the Secretary of the said school vide letter dated 15<sup>th</sup> November, 2006 requested the Secretary of the Board to take steps since according to the said school authority improvement in infrastructure of the school was made as per the order dated 18<sup>th</sup> April, 2006.

Notice of this Court is also drawn to the memo dated 9<sup>th</sup> October, 2012 issued by the Assistant Secretary, School Education Department addressed to the Secretary of the West Bengal Board of Secondary Education whereby the Board was requested to furnish "Action Taken Report".

It has been submitted on behalf of the petitioner that since there is improvement in sanitation and supply of drinking water in the school premises there should not be any impediment in granting recognition of the school in question as Junior High School pursuant to the order passed by the coordinate Bench on 18<sup>th</sup> April, 2006 and unnecessarily the concerned respondent authorities are withholding grant of recognition as sought for.

Mr. Mukherjee, learned Additional

Government Pleader appears on behalf of the State respondents and has placed reliance on the affidavit-in-opposition affirmed on 29<sup>th</sup> July, 2019 which contains the report of District Level Inspection Team (DLIT) prepared on the basis of the inspection made on 22<sup>nd</sup> July, 2019. It has been submitted on behalf of the State respondents as well as Board that there is no substantial improvement of sanitation and drinking water supply in the school premises which is required in terms of the order passed by the coordinate Bench dated 18<sup>th</sup> April, 2006 and the roll strength of the school as shown is not genuine as it appears from paragraphs 5 & 6 of the DLIT report dated 24<sup>th</sup> July, 2019.

Having considered the submission made on behalf of the respective parties and on consideration of the materials available on record, it appears that previously refusal to grant recognition in the year 1995 was challenged by the said school authority and the same was set aside by the Hon'ble Justice Kalyan Jyoti Sengupta (as His Lordship then was) vide order dated 1<sup>st</sup> April, 1998. It was recorded in the order dated 18<sup>th</sup> April, 2006 passed by the Hon'ble Justice Ashim Kumar Banerjee (as His Lordship then was) that the points

of rejection as highlighted by the Board in its order dated 1995 were not kept alive in view of the decision passed by the coordinate Bench on 1<sup>st</sup> April, 1998 and only point which was kept open according to Ashim Kumar Banerjee, J. was the roll strength of the school which was required to be considered while taking decision on grant of recognition in favour of the said school.

However, while deciding the second writ petition being WPA 1049 of 2001 Ashim Kumar Banerjee, J. also added two other infrastructural issues which according to the Court are required to be looked into i.e. drinking water facility and sanitation of the school building.

From the affidavit-in-opposition used on behalf of the State respondents, it appears that DLIT inspection was held on 22<sup>nd</sup> July, 2019 and a report was prepared on 24<sup>th</sup> July, 2019 upon pointing out the following shortcomings with regard to the infrastructure of the said school as well as roll strength. The relevant part of the report of the DLIT dated 24<sup>th</sup> July, 2019 is quoted below:

- “1. With regard to drinking water there is one tube-well in the school premises.
2. There are no drains from the boys’/girls’ urinals and as such the

*school premises do not have sanitation facilities. Moreover, several water logged pits (which might lead to the spread of vector borne diseases) were observed by the team members.*

*3. Toilets for students are unhygienic (one urinal for boys & one for girls but no latrine was found). Beside the urinals, there is a canal that often gets overflowed with sewage water, which in turn enters into the students' toilet. There exists no facility of running water in the toilets.*

*4. Report relating to land.*

*a) Area-12 decimal (Land transferred via gift-deed to the school; no original copy of the said land deed is produced before the DLIT during the inspection; Certified true copy of the deed was produced in original).*

*b) The nature of the said 12 decimal of land has been specified as 'Danga'.*

*c) Copy of 'parcha' (records related to the mutation of the said land in favour of the school) was not produced.*

*d) Building – Semi-Pucca (Unplastered brick-structure*

*with tin-roof).*

- e) Electric Meter was installed on 10/07/2019 with reference ID No-104505460, probably in anticipation of the impending DLIT visit.*
  - f) No fire safety and natural disaster fighting arrangement was found available.*
  - g) No fire NOC was produced before the DLIT during the visit.*
- 5. Report relating to roll strength of the school: It appears that almost all of the students who were present on the date of DLIT visit (22/07/2019) are enrolled in other Government aided/sponsored schools, located in the adjoining areas. They are by no means actual students of the said school. It also appears that the class wise attendance registers of 2019 are filled with fake names.*
  - 6. No Admission Register of the said school was produced before the DLIT on 22/07/2019 during the inspection. The TiC of the school gave it in writing that he would submit a photocopy of the said Admission Register of the school at the office of the District Inspector of Schools (S.E.), South 24 Parganas on 24/07/2019 (copy enclosed).*

*However, on 24/07/2019 he turned up in person at the office of the District Inspector of Schools (S.E.), South 24 Parganas and reported that the said admission register of the school was 'lost' and he had lodged a General Diary at the Diamond Harbour police station in this regard, vide no.2415 dated 23/07/2019".*

On perusal of the DLIT report dated 24<sup>th</sup> July 2019 it cannot be said that infrastructural issues which are required to be upgraded by the said school authority in terms of the order of the coordinate Bench dated 18<sup>th</sup> April, 2006 have been made which would facilitate running of a Co-Educational Junior High School.

It also appears from the said DLIT report that the said school authority made an effort to show that there are adequate number of students who are prosecuting their studies in the said school but on scrutiny it was found by the authority that those students are enrolled in other Government aided schools located in adjoining areas.

Another issue which does not escape notice of this Court that the organizing Managing Committee of the school has not come forward with

the present writ petition, it is the Teacher-in-Charge who is the petitioner and has approached with the writ petition after a period of nearly six years from the date of issuance of the memo dated 9<sup>th</sup> October, 2012 issued by the Assistant Secretary addressed to the Board. The writ petition was instituted on 21<sup>st</sup> August, 2018.

This Court has posed a query to the learned advocate representing the petitioner whether any explanation has been offered in the writ petition on such delay of nearly six years in approaching the Court; however this Court does not get any satisfactory reply. It is well settled as enunciated in the judgment of the Apex Court, reported in (2007) 9 SCC 278 (New Delhi Municipal Council –vs- Pan Singh & Ors.), in paragraph 17 it has been held that though there is no period of limitation provided for filing writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time.

Considering the enumeration of facts as made in preceding paragraphs it appears that petitioner has approached this Court with the present writ petition after a considerable period of time (nearly six years) and the same cannot be countenanced.

In view of aforesaid scenario, the writ petition stands dismissed.

This order shall not preclude the petitioner to improve the infrastructure of the school before approaching the concerned respondent authorities for grant of recognition and it will be open to the said school authority to apply before the concerned authorities in accordance with law after such improvement of infrastructure.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

**(Saugata Bhattacharyya, J.)**