

04.12.2023
Item No. 12
Crt.No.22
b.r.

WPA 15624 of 2004

Md. Rafiuddin & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.

Md. Salahuddin

Md. Ahsanuzzaman

Md. Raziuddin

.... For the petitioners.

Mr. Anirdam Chattopadhyay

Ms. Lipika Chatterjee

... for the State-respondents.

Mr. Nadeem Sulaiman

.... For the Madrasah Board.

Mr. Bikash Ranjan Bhattacharyya, learned Senior Counsel, appears for the petitioners through virtual mode.

Mr. Arindam Chattopadhyay, learned counsel, appears for the respondent nos. 1 to 3.

Mr. Nadeem Sulaiman, learned counsel, appears for the respondent nos. 4 and 5.

This is a hearing matter on affidavits.

Drawing attention to **annexure p-6 at page 45** to the writ petition, Mr. Bikash Ranjan Bhattacharyya, learned Senior Counsel, submits that way back in 2004, the recognition as claimed by the relevant Madrasah was rejected principally on the plea that

there were some non-compliance with regard to the infrastructural facility, this was a statutory requirement.

In view of the above, referring to the supplementary affidavit affirmed on **April 26, 2022** which is on record, learned Senior Counsel further submits that all those infrastructural deficiencies have been cured by this time. Hence, there is no bar for granting recognition to the relevant Madrasah.

Mr. Nadeem Sulaiman, learned counsel appearing for respondent nos. 4 and 5 submits that the entire issue relates to 2004. He submits that substantial period has elapsed when we are in 2023 today. Law might have been changed also. He submits that no decision can be taken at this stage on an issue, which cropped up in 2004.

Mr. Arindam Chattopadhyay, learned State counsel appearing for the respondent nos. 1 to 3 submits that the recognition will ultimately come from the State authority and the respondent no.3, the jurisdictional District Inspector of School is the appropriate authority. The said jurisdictional authority is also required to carry out certain factual enquiries before proceeding with the grant of recognition to the relevant Madrasah.

After considering the submissions made on behalf of the parties and upon perusal of the materials on record, it appears to this Court that in any event if the relevant Madrasah makes a fresh application for recognition at this juncture, there cannot be a legal bar.

In view of the above, and to sub-serve justice, the relevant Madrasah, namely, **Barsore Halima Khatun J.R.. High Madrasah, District-Birbhum** shall be at liberty to make a fresh application seeking recognition considering with all its present state of affairs and infrastructural facilities before the respondent no.5.

In the event, such an application is submitted, the **respondent no.5** shall give a notice to the respondent no.3 and then in presence of the respondent no.3 and in presence of the Madrasah applicant shall decide the issue by passing a reasoned order **strictly in accordance with law.**

Both the respondent no.5 and/or the appropriate authority and the respondent no.3 shall be at liberty to carry out all necessary formalities which are required to be done **strictly in accordance with law.**

An opportunity of hearing shall also be granted to the Madrasah applicant.

It is needless to mention that the entire procedure has to be carried out afresh.

The entire exercise shall be carried out and completed by the **respondent no.5** positively within a period of **eight weeks** from the date of receiving the necessary application from the relevant Madrasah applicant.

It is needless to mention that the **respondent no.3** shall render all its co-operation to the **respondent no.5** in every respect and shall carry out its duties **strictly in accordance with law** so that the entire exercise can be completed within the time stipulated herein.

The respondent no.5 then shall communicate its reasoned order to the **Madrasah applicant** and the **respondent no.3** positively within a period of **two weeks** from the date of the said reasoned order to be passed.

With the above observations and directions, this writ petition, **WPA 15624 of 2004** stands **allowed**, without any order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)