

03.12.2024
Ct. No. 18
Sl. No. 34
tbsr

WPA 12301 of 2023

**Menoka Bala Devi Smriti Academy Jr. High Madrasah
(MSK) (Co-Education) represented by its member of
the Managing Committee---
Md. Nur Islam Mistry & Ors.**

Vs.

The State of West Bengal & Ors.

Mr. Amar Nath Sen
Mr. Shouvik Naskar
....for the petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
....for the State

By presenting this writ petition, inter alia, challenge has thrown to order dated 15th December, 2020 issued by the Secretary, Government of West Bengal, Minority Affairs & Madrasah Education Department wherein on raising certain infrastructural deficiencies prayer of the petitioners for granting recognition of Menoka Bala Devi Smriti Academy Junior High Madrasah as unaided Madrasah was rejected. It is stated in the order dated 15th December, 2020 that the aforesaid Madrasah does not have proper drinking water facility and toilet facility. In addition thereto, it is also stated therein that part of the Madrasah building was used for residential purposes. Prayer for granting recognition to the aforesaid Madrasah as unaided Madrasah was rejected.

Learned advocate representing the petitioners relies upon order dated 20th December, 2019 passed on a writ petition being *WPA 3418 of 2017 (Md. Nurul Islam Mistry and others Vs. State of West Bengal & Others)* wherein Secretary, Minority Affairs & Madrasah Education Department was directed to dispose of the application of the petitioners dated 21st December, 2009 after hearing the Managing Committee of the aforesaid Madrasah. It is further submitted that application for recognition was made on 21st December, 2009 whereas Government circular dated 7th October, 2013 was issued by the Secretary, Minority Affairs and Madrasah Education Department putting an embargo relating to granting of recognition in favour of Sishu Shiksha Kendra and Madhyamik Shiksha Kendra. Therefore, it is contended since application for recognition was made prior to issuance of circular dated 7th October, 2013 such application for recognition needs to be considered as an application for recognition for granting recognition for Madrasah Shiksha Kendra upon making necessary conversion from Madrasah to Madrasah Shiksha Kendra.

However, Mr. Vaisya, learned Additional Government Pleader relies upon the said circular dated 7th October, 2013 and relevant part of the order of the Co-ordinate Bench dated 20th December, 2019 wherein it has been observed that circular dated 7th October, 2013

reserved the right of all pending applications which is to be treated as applications for recognition as unaided Madrasah. Therefore, application of the petitioners for grant of recognition in view of the order passed by the Co-ordinate Bench on 20th December, 2019 can only be considered as an application for recognition of unaided Madrasah not as Madrasah Shiksha Kendra.

Having considered the submissions made on behalf of the parties and taking note of the order passed by the Co-ordinate Bench on 20th December, 2019 as well as Government circular date 7th October, 2013 it appears that it has been provided in the said Government circular dated 7th October, 2013 that further recognition of Madrasah Shiksha Kendra is prohibited and at the same time pending applications seeking recognition were saved for consideration whether applicant institutions can be granted recognition as unaided Madrasah or not. In consideration of such Government order dated 7th October, 2013, Co-ordinate Bench also observed in the order dated 20th December, 2019 that notification categorically reserves the right of all pending applications to be considered for recognition as “unaided Madrasah”.

Therefore, only scope which is left open today is to treat the application of the petitioners dated 21st December, 2009 as an application for grant of

recognition as unaided Madrasah not as Madrasah Shiksha Kendra. Since it is submitted on behalf of the petitioners that deficiencies as pointed out in the order dated 15th December, 2020 have already been cured, this Court finds further inspection is required to find out whether petitioners have improved the infrastructure or not in terms of the decision dated 15th December, 2020.

District Inspector of Schools (SE), South 24 Parganas is directed to make an arrangement for surprise inspection in the aforesaid Madrasah by eight weeks from the date of communication of this order. On receipt of report if concerned District Inspector of Schools (SE) finds that infrastructural deficiencies have been cured, he will forward the inspection report to the higher authorities for taking final decision regarding recognition of the Madrasah as unaided Madrasah. After inspection copy of the report shall be furnished to the petitioners.

Learned advocate for the petitioners is granted liberty to amend the cause title of this writ petition and add the District Inspector of Schools (SE), South 24 Parganas as additional respondent in course of this day. However service of notice upon the additional respondent stands dispensed with since State respondents are represented by learned advocate.

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

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Saugata Bhattacharyya, J.)