

**MAT 1887 of 2022**

with

**I.A No. CAN 1 of 2022**

**Jakiur Rahaman**

**Vs.**

**State of West Bengal & Ors.**

Mr. Biswaroop Bhattacharya

Mr. Anindya Bose

Mr. Golam Mohiuddin

Ms. Puja Mondal

Mr. Mridul Biswas

... For the Appellant

Mr. B.P Vaisay

Sk. Md. Galib

Mr. Gourav Das

... For the State

Mr. Nadeem Sulaiman

... For the Madrasah Board

1. The appeal is arising out of an order dated 21<sup>st</sup> September, 2022 in which the writ petitioner assailed the order dated 17<sup>th</sup> August, 2022 passed by the Secretary, West Bengal Board of Madrasah Education.

2. It appears that an inspection was held on 10<sup>th</sup> December, 2018 and the D.L.I.T recommended for approval of the Madrasah in presence of the District Inspector of Schools (S.E), Birbhum. We find from the report of the D.L.I.T, appearing at page 104 of the stay application, that two representatives of WBBME and Assistant Inspector of Schools (S.E) in-charge of M.E were present. Curiously, the

Secretary, West Bengal Board of Madrasah Education on 17<sup>th</sup> August, 2022 rejected the recognition on the following grounds:-

- (a) Last two years Audit Report is not placed along with DLIT report.*
- (b) The Teachers and Staff Pattern and documents related to their recruitment are not attached along with DLIT report.*
- (c) Sanction Building plan and photograph of the building of the existing Madrasah teachers and students are not attached along with the DLIT report.*
- (d) Class room size is very less than required as per rule.*
- (e) Nearby other Madrasah is available and there is no comment regarding local demand for this Madrasah.*

3. It was the duty of the Secretary of the West Bengal Board of Madrasah Education to call for any document or information from the D.L.I.T, as it is not the case that during inspection all the relevant documents were not produced to the inspecting team. Moreover, the inspection team consists of representatives of the Madrasah Education itself.

4. The report filed by the Secretary of the West Bengal Board of Madrasah Education suffers from total non-application of mind. Madrasah had applied for recognition in the year 2012. The D.L.I.T report is 2018 and in the

mean time the land was registered in favour of the Madrasah in April 2015. Hence, in the finding that the Madrasah did not own any land is clearly unacceptable. In so far as the other portion of the report is concerned, once the D.L.I.T has recommended for approval and the said D.L.I.T inspection team consists of representatives of the Madrasah Education, it has to be presumed unless proved otherwise that all the requirements for recognition on the date of inspection have been fulfilled there is no allegation against any member of the DLIT team of favouritism.

5. The existence of S.S.K is not also relevant as the Madrasah has applied for recognition as a Junior High Madrasah, that is to say, upto Class-VIII for the time being and all endeavour should be made to make available education to the children in the District.

6. In view thereof, the order passed by the Secretary on 17<sup>th</sup> August, 2022 is set aside. As a consequence thereof, the order passed by the learned Single Judge is also set aside.

7. We direct the Secretary of the West Bengal Board of Madrasah Education to consider the matter afresh on the basis of the D.L.I.T report

within eight weeks from the date of communication of this order. It shall be open for the Secretary to call for any document as information that may be required in considering the application for recognition as on the date, when the writ petition was filed. Any other subsequent events may also be considered.

8. In view of the above, MAT 1887 of 2022 stands disposed of.

9. In view of the disposal of the appeal, nothing remains to be decided in the application for stay being CAN 1 of 2022 and the same is accordingly disposed of.

10. However, there shall be no order as to costs.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Uday Kumar ,J.)**

**(Soumen Sen, J.)**

