



2024:DHC:3548



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9199/2023 and CM APPL.34967/2023**

**HARINARAYAN RAJESHWAR VIDYA
VIHAR**

..... Petitioner

Through: Ms. Rambha Singh and Mr.
Govind Jee, Advocates

versus

**CENTRAL BOARD OF SECONDARY
EDUCATION AND ANR**

..... Respondents

Through: Ms. Manisha Singh, Advocate
for CBSE

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (O R A L)

01.05.2024

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1. The prayer clause in this writ petition reads as under:

“a) issue a writ of mandamus or any other suitable writ, order or direction to the Respondent, the Central Board of Secondary Education, to issue provisional affiliation upto secondary level of the petitioner school for commencement of classes under the CBSE pattern for the IX, X, XI and XII standards for the academic year 2024-2025 and onwards;
and/or;

b) issue a writ of mandamus or any other suitable writ, order or direction to the Respondent to review the compliance dated 24.08.2022, whereby deficiencies notified to the Petitioner on 26.07.2022, were remedied and uploaded on online portal of the Respondent Board; and/ or

c) pass any such other orders/directions as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.”

2. On 30 June 2018, the petitioner applied to the Central Board of

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Secondary Education (CBSE) for general affiliation upto the secondary level through the Online School Affiliation and Monitoring System of the CBSE. Requisite documents were also submitted with the application.

3. On 19 March 2019, the CBSE wrote to the petitioner, stating that there were deficiencies in its institution which did not allow its affiliation by the CBSE. Consequent on the petitioner informing the CBSE that it had rectified the deficiencies indicated on 19 March 2019, the CBSE constituted an inspection committee which inspected the petitioner school on 25 April 2022 and on the same date, wrote to the petitioner, pointing out further deficiencies which were found in the school. The petitioner responded on 6 May 2022, stating that it had rectified the deficiencies pointed out by the CBSE.

4. The CBSE nonetheless issued yet another communication dated 26 July 2022, pointing out further deficiencies in the petitioner-school. The petitioner wrote back to the CBSE on 24 August 2022, again stating that the deficiencies pointed out in the communication dated 26 July 2022 stood rectified.

5. Nonetheless, the CBSE, *vide* the impugned order dated 28 December 2022 has upheld the decision dated 19 March 2019, refusing to grant provisional affiliation to the petitioner.

6. Aggrieved thereof, the petitioner approached this Court.



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7. A reading of the impugned order dated 28 December 2022 whereby the CBSE has upheld the decision not to grant provisional affiliation to the petitioner reveals that it has not satisfactorily dealt with the response of the petitioner on 24 August 2022, apropos the deficiencies which were pointed out in the earlier communication dated 26 July 2022.

8. The recital in the impugned order dated 28 December 2022 is to a great extent, the reiteration of the communication dated 19 March 2019.

9. In these circumstances, in order to expedite the matters, this Court had on the very first date of hearing, i.e. 13 July 2023 directed the CBSE to re-consider the response/representation dated 24 August 2022 of the petitioner and place the outcome of the reconsideration on record.

10. Regrettably, the CBSE has passed an order dated 25 September 2023 in vernacular, the operative and concluding paras read thus:

“चूँकि विद्यालय द्वारा दिए गए ऑनलाइन आवेदन एवं निरस्तीकरण उपरांत दिए गए पुनः आवेदन का नियमानुसार परीक्षण उपरांत निस्तारण किया जा चुका है, साथ ही पुनः नवीन आवेदन हेतु प्रति वर्ष दो बार विद्यालयों को अवसर प्रदान किये जाते हैं, अतः उक्त विद्यालय द्वारा पूर्व में किये गए आवेदन पर पुनर्विचार का बोर्ड द्वारा कोई अवसर प्रदान नहीं किया जाता है। तदनुसार आवेदक के आवेदन को इस आशय के साथ निस्तारित किया जाता है कि. यदि वह पात्रता की शर्तें पूरी करते हों तो अगले विंडो में सम्बद्धता हेतु ऑनलाइन आवेदन निर्धारित प्रक्रिया के तहत कर सकते हैं।

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सक्षम प्राधिकारी के आदेशानुसार जारी।“

11. It is obvious that the CBSE ought not to have acted consequent on the order dated 13 July 2023 in the way it did. The CBSE was bound to reconsider the petitioner's application on merits. It was not open to the CBSE to baldly state that the application has been considered once and was not required to be reconsidered again. That would amount to blatant disobedience passed by this Court

12. That apart, the impugned order dated 28 December 2022 is largely non-speaking. It does not address the submissions contained in the communication dated 24 August 2022 from the petitioner to the CBSE.

13. Ms. Manisha Singh, who appears for the CBSE submits that the affiliation that was sought was for 2024-25 which is over and that the petitioner would have to re-seek affiliation for 2025-26 after following due procedures prescribed in that regard.

14. I cannot agree. The petitioner's application stood rejected by the impugned order dated 28 December 2022 which is completely non-speaking and does not deal with the submissions contained in the letter dated 24 August 2022 from the petitioner to the CBSE. It is for this reason that this Court is having to pass the present order.

15. Ms. Rambha Singh, who appears for the petitioner prays therefore, that the CBSE may be directed to reconsider the petitioner's

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application treating it as an application seeking affiliation for the year 2025-26, after taking into consideration the reply dated 24 August 2022, submitted by the petitioner to the CBSE by way of response to the communication to the withdrawal order dated 26 July 2022. She specifically states on instruction that her client is entirely compliant with the norms and requirements for running the school and that there is nothing more it requires to do. Ms. Rambha Singh prays that the CBSE may be directed to inspect the petitioner-school and thereafter take *de novo* decision on the petitioner's application for grant of affiliation.

16. There can be no serious objection to this course of action. As such, this writ petition is disposed of in the following terms:

- (i) The impugned order dated 28 December 2022 whereby the rejection order dated 26 July 2022 was affirmed stands quashed and set aside.
- (ii) The CBSE shall conduct a fresh inspection of the petitioner's premises.
- (iii) The CBSE will thereafter act on the basis of what is seen in the light of the communication dated 24 August 2022 submitted by the petitioner to the CBSE in which it was specifically asserted that there was no non-compliance on the petitioner's part.



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(iv) A fresh order would be passed by the CBSE on the petitioner's request for affiliation, treating the request as having been made for the year 2025-26.

17. As Ms. Rambha Singh submits on instructions that her client does not desire to carry out any further changes in the petitioner institution, the *de novo* decision would be taken in the light of the letter dated 26 July 2022 and the reply dated 24 August 2022 submitted by the petitioner thereto along with the result of the physical inspection of petitioner's premises by the CBSE.

18. No order adverse to the interest of the petitioner would be passed without granting the petitioner an opportunity of personal hearing on a date mutually convenient to the CBSE and the petitioner, on a date to be communicated by the CBSE to the petitioner. The petitioner is directed to make itself available/represented on the said date before the CBSE. Let the *de novo* order be passed within a period of eight weeks from today.

19. Should the petitioner continue to remain aggrieved by the *de novo* decision, the petitioner would be at liberty to adopt appropriate remedies as are available to it in law.

20. No further opportunity of rectifying deficiencies would be given to the petitioner.



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21. The writ petition stands disposed of in the above terms with no orders as to costs.

22. Order *dasti*.

C.HARI SHANKAR, J

MAY 1, 2024/yg

Click here to check corrigendum, if any

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