

Constitutional Writ

Present: The Hon'ble Justice Debasish Kar Gupta

Judgment on 25.08.2101

W. P. No.12503(W) of 2005

Jamuria Urdu Junior High School.

versus

The State of West Bengal & Ors.

Points:

**Scope of writ-**Whether writ court can examine the correctness of the report of the D.L.I.T. for considering claim of recognition of a school.-Constitution of India Art 226

Facts:

The petitioners submitted an application dated January 19, 1987 to the West Bengal Board of Secondary Education for recognition of Jamuria Urdu Junior High School, Jamuria Hut, Burdwan as a Urdhu Medium Class VI to VIII Junior High School. District Level Inspection Team inspected the school in question. Respondent authority thereafter rejected the application of the petitioner for recognition of School considering the report of the D.L.I.T.

Held:

The government of West Bengal laid down conditions for recognition of schools and approval of organising staff by a departmental order bearing no.553-Edn(s) dated April 26, 1978. Under the above departmental circular, district wise panel should be prepared for the purpose of recommending for recognition of limited number of schools from January 1, 1978. Under the above circular there should be a District Level Inspection Team for

inspection of the schools for recognition. In the instant case the District Level Inspection Team inspected the school in question on April 30, 2004. Admittedly the District Level Inspection Team found that the school in question was running in the building of another school, namely, Jamuria Mulsim Free Primary School. Undisputedly, the school in question was not a school set up by the respondent authority considering the need of the area, population and general educational considerations in terms of the aforesaid circular no.553-Edn(s) dated April 26, 1978. The above report of the District Inspection Team with regard to the poor infrastructure and poor sanitary arrangement of the school in question were a disputed facts in view of the claim of the petitioners. But a writ court cannot examine the correctness of such a claim of the petitioners.

Para 7 and 8

Cases cited:

West Bengal Board of Secondary Education Vs. Dakhiruddin Khan, reported in AIR 2002 Cal 200, West Bengal Madrasah Education Board Vs. Shaikh Sahajamal & Ors., reported in 2005(2) CHN 67

For Petitioner : Ms. Debjani Sengupta

For Respondents : Mr. Tapabrata Chakraborty, Mr. Kumaresh Dalal.

**The Court:** This writ application is directed against an order passed by the respondent no.3 rejecting the application for recognition Jamuria Urdu Junior High School.

2. The brief history of this case is as follows:

a) The petitioners submitted an application dated January 19, 1987 to the West Bengal Board of Secondary Education for recognition of Jamuria

Urdu Junior High School, Jamuria Hut, Burdwan as a Urdhu Medium Class VI to VIII Junior High School. Since the respondent authority did not pay any heed to the above application, the petitioners filed an application under article 226 of the constitution of India bearing W.P. No.18996(W) 2000 which was disposed of on August 28, 2001 with the following orders.

***“In that view of the matter, this writ petition fails. But it is made clear that in the event the organizing school improves upon the infrastructure and reaches the minimum standard prescribed by the Government for a recognised school, it shall be entitled to apply afresh and while so applying, it must indicate that each prescribed norm has been fulfilled by the school. In the event, such an application is made, it is expected that the State authorities including the Board shall expeditiously decide the matter inasmuch as it is complained of in the petition and not denied by the State that the local children studying in the local primary school having no institution imparting education through the medium of Urdhu are dropping out. This writ petition is, thus, disposed of.”***

b) Subsequently, the petitioner no.2 submitted a representation dated February 4, 2002 to the respondent no.5 for an enquiry of the school in question to take steps for recognition of the same.

c) Subsequently, the petitioners filed another writ application bearing W.P.No.6721(W) of 2002 and the same was disposed of on February 23, 2004 with the following directions.

***“Accordingly, I direct the D.I. concerned to send the District Level Inspection Team to inspect the school afresh, who will, upon inspection find whether any improvement as regard infrastructure of the school has been made or not, from the position, as has been observed by His Lordship Mr. Justice Barin Ghosh. Such District Level Inspection Team shall be***

*sent within four weeks from the date of communication of this order and they shall submit a report to the D.I, within a period of four weeks from the date of visit. The D.I. shall do the needful and send all the papers and documents, along with his recommendation, if any, to the Director of School Education, within a period of six weeks from the date of receipt of report of the District Level Inspection Team. Thereafter the Director of School Education shall do the needful in his turn and send all the relevant papers and documents to the Secretary, Education Department, Government of West Bengal, within a period of four weeks from the date of receipt of the papers and documents from the D.I. Thereafter, the Secretary shall do the needful and send all the papers and documents, along with his recommendation, if any, to the Board, within a period of four weeks from the date of receipt of all the papers and documents from the Director of School Education. Thereafter, the Board shall take decision on the question of recognition of the school within a period of twelve weeks from the date of receipt of papers and documents from the Secretary. The writ petition is, thus, disposed of.”*

d) Subsequently, the District Level Inspection Team visited the school in question on April 30, 2004 and submitted its report to the respondent authority with the following remarks:

*(1) This Jamuria Urdu Jr. High School has been established on 23.11.85 without any permission from the contract authority and this has been done in sheer violation of the G.O. No.553-Edn(S) Dt. 26-4-78.*

*(2) This School has no building of its own.*

*(3) At present the school has been running in the building of Jamuria Muslim Free Pry. School which is not adequate for running Secondary school.*

*(4) No noticeable development in respect of infrastructure as per order dt. 28.8.2001 passed by His Lordship Hon'ble Justice Barin Ghosh has been made exempt reconstruction partition walls(in two rooms) to increase the floor space. This building is not owned by the proposed Jr. High School. School authority has no locus standi to undertake any construction on this land or building. (5) The existing Primary School building where this school been running appeared to be damaged and unsafe for students. (6) The sanitary arrangement also appeared to be unsafe for the grown-up girls students. In view of the above, the case may not be recommended for recognition.”*

e) Thereafter, the respondent board passed the impugned order. Hence this writ application.

3. It is submitted by Ms. Debjani Sengupta, learned advocate appearing for the petitioners, that the petitioners established the school in question for imparting education in Urdu. There was a high school about 10 Km. away from the school in question. Most of the Urdu students passing from primary institutions used to stop going to the High School. So the school in question deserved consideration under Clause(f) of departmental circular No.553-Edn(s) dated April 26, 1978. It is further submitted on behalf of the petitioners that though the school in question had no building of its own, it had a plot of land for construction of school building. According to Ms. Sengupta the allegation of poor infrastructure of the school in question was not correct. The attention of this court is drawn towards recognition of another primary school namely, Kazi Nazrul Islam Urdu High School, P.O. Jamuria, Dist. Burdwan to submit that there was discrimination in recognizing the above school.

4. Ms. Sengupta relied upon an unreported decision dated November 21, 2006 in the matter of **Ranisayer Junior High School Vs. Rajendra Vidyapit High School (FMA Nos.2427 of 2004 with FMA No.81 of 2005)** to submit that in similar circumstances a Division Bench of this court directed the State Government to enquire afresh in the matter of claims of recognition of two similarly circumstanced schools.

5. On the other hand it is submitted by Mr. Tapabarta Chakraborty, Learned Additional Government Pleader, High Court, Calcutta, on behalf of the respondents that the respondent board considered the case of the petitioner on the basis of the observations made by the District Level Inspection Team in its report dated April 30, 2004. It is further submitted by him that in doing so the respondent authority acted in the light of the guidelines framed by the Government under departmental circular No. 553-Edn(s) dated April 26, 1978. According to Mr. Chakraborty, the school in question had no building of its own at the time of inspection of the District Level Inspection Team and the same was running in the building of Jamuria Muslim Free Primary School Building. According to him the claim of the petitioner of having good infrastructure was contrary to the observations made by the District Level Inspection Team in its report. With regard to the recognition of another similarly circumstanced institution in the concerned areas, it is submitted by Mr. Chakraborty that the same was a school set upon by the respondent authority. Therefore, according to him it was not a similarly circumstanced institution. Mr. Chakraborty further relied upon the deposition the petitioner no.2 in a title suit bearing T.S. No.35 of 2005 (in re. Jamuria Urdhu High School Vs. Secretary Association Committee) to submit that the petitioner No.2 himself failed to produce any paper before

the learned court in support of the possession any land in the name the school in question.

6. Mr. Chakraborty relied upon the decisions of **West Bengal Board of Secondary Education Vs. Dakhiruddin Khan, reported in AIR 2002 Cal 200, West Bengal Madrasah Education Board Vs. Shaikh Sahajamal & Ors., reported in 2005(2) CHN 67** and unreported decision dated June 19, 2008 in the matter of **Shri Panchanan Giri Vs. State of West Bengal ( in re. W.P. No.5804(W) of 1998)** in support of his submissions.

7. I have heard the learned counsel appearing for the respective parties at length and I have given my thoughtful consideration to the facts and circumstances of this case. The government of West Bengal laid down conditions for recognition of schools and approval of organising staff by a departmental order bearing no.553-Edn(s) dated April 26, 1978. Under the above departmental circular, district wise panel should be prepared for the purpose of recommending for recognition of limited number of schools from January 1, 1978. Under the above circular there should be a District Level Inspection Team for inspection of the schools for recognition.

8. In the instant case the District Level Inspection Team inspected the school in question on April 30, 2004. Admittedly the District Level Inspection Team found that the school in question was running in the building of another school, namely, Jamuria Mulsim Free Primary School. Undisputedly, the school in question was not a school set up by the respondent authority considering the need of the area, population and general educational considerations in terms of the aforesaid circular no.553-Edn(s) dated April 26, 1978. The above report of the District Inspection Team with regard to the poor infrastructure and poor sanitary arrangement of the school in question were a disputed facts in view of the claim of the

petitioners. But a writ court cannot examine the correctness of such a claim of the petitioners.

9. I do not find any substance in the claim of the petitioners that the school in question had a plot of land of its own or that recognition was granted to another similarly circumstanced school. Undisputedly, the school in question had no school building. The other school namely Kazi Nazrul Islam Urdhu Junior High School set up by the respondent authority. So the same was not standing on the same footing.

10. Therefore, admittedly the District Level Inspection Team found that the school in question would not be recommended for recognition in the light of the guidelines of the departmental circular no.553-Edn(s) dated April 26, 1978. The respondent board passed the impugned order on the basis of the above report of the District Level Inspection Team. So I do not find any illegality or impropriety in the above decision.

11. I do not find that the unreported decision of **Ranisayer Junior High School(supra)** helps the petitioner in any way in view of the distinguishable facts and circumstances of this case as discussed hereinabove.

12. This writ application fails.

13. There will be, however, no order as costs.

14. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.

( **Debasish Kar Gupta, J. )**



