A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 7100 of 2010

Dated this the 11th day of March, 2014

JUDGMENT

Aggrieved by the inaction on the part of the 4th respondent in granting affiliation to the petitioner, the petitioner has come up before this Court.

2. The petitioner school alleges that the same is following CBSE syllabus. In order to get affiliation from the 4th respondent, NOC has to be obtained from the 1st respondent. Therefore, the petitioner submitted an application along with challan before the 3rd respondent, who refused to grant NOC due to the existence of Ext.P5 Government Order, wherein the Government has decided to grant NOC to the schools situated in five northern districts of Kerala. The petitioner alleges that this Court, as per Ext.P6 judgment, quashed Ext.P5 G.O. and; though the Government has filed appeal against Ext.P6 judgment, the Division Bench did not interfere with Ext.P6, but

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THIRUVANANTHAPURAM - 695 302
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SECRETARY
VIDYA MOUNT PUBLIC SCHOOL
MANGALAPURAM, MURUKKUMPUZHA P.O

PRINCIPAL
MGM VIDYA MOUNT PUBLIC SCHOOL
MANGALAPURAM, MURUKKUMPUZHA P.O.
THIRUVANANTHAPURAM - 695 302

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 11TH DAY OF MARCH 2014/20TH PHALGUNA, 1935

WP(C).No. 7100 of 2010 (J)

PETITIONER(S):

VIDYAMOUNT PUBLIC SCHOOL,
EDAVILAKAM, MURUKKUMPUZHA P.O.,
MANGALAPURAM PANCHAYATH, TRIVANDRUM,
REPRESENTED BY ITS MANAGER & SECRETARY,
N.VELAYUDHAN.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENT(S):

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
TRIVANDRUM.

3. THE DISTRICT EDUCATIONAL OFFICER,
TRIVANDRUM.

4. THE PRINCIPAL OFFICER,
CENTRAL BOARD OF SECONDARY EDUCATION
(AFFILIATION UNIT), A.M.C.CELL, SHIKSHA KENDRA,
2 COMMUNITY CENTRE, PREET VIHAR, DELHI-110 092.

R1 TO R3 BY SR.GOVERNMENT PLEADER SRI.P.FAZIL
R4 BY ADVS. SRI.DEVAN RAMACHANDRAN,SC
SRI.K.M.ANEESH
SRI.S.NIKHIL SANKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-03-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kss

SECRETARY
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EDAVILAKOM MURUKKUMPUZHA P.O

PRINCIPAL
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MANGALAPURAM, MURUKKUMPUZHA P.O
THIRUVANANTHAPURAM - 695 502

Government. It is in this context, the petitioner has come up before this Court.

3. This Court, by interim order dated 26.09.2011, directed the 4th respondent to take a decision with regard to the grant of provisional affiliation to the petitioner school within a period of two weeks from the date of receipt of a copy of the said order. It was further directed that such a decision shall be taken without insisting for production of NOC from the State Government.

4. Today, when the matter came up for hearing, the learned counsel for the petitioner submitted that on the basis of the interim direction already granted by this Court, affiliation was given by the 4th respondent to the petitioner school and; the petitioner school is functioning with affiliation.

5. This Court is of the definite view that the insistence of the NOC from the State Government at this juncture will not be proper as the petitioner school is

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issued a direction to the Government to reconsider the applications within a time frame. The Government rejected about 28 application by virtue of Ext.P8 order, which was again challenged before this Court. The Division Bench of this Court, by Ext.P9 order, directed the 4th respondent to consider the applications of all unaided schools without waiting for the NOC of the State. As the Government rejected the applications submitted by the petitioners therein, the Division Bench of this Court directed the Government to reconsider the applications within one month. The petitioner submits that the matter was taken by the Government before the apex court and the apex court stayed the Division Bench judgment dated 06.04.2009. The petitioner's grievance is that the subsequent application filed by the petitioner before the 4th respondent for getting affiliation was returned stating that the petitioner has to resubmit the application after curing certain defects. According to the petitioner, the defects were cured except availing NOC from the State

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functioning on the basis of the affiliation already granted by the 4th respondent on the strength of the interim direction of this Court.

Therefore, the writ petition is closed making it clear that the petitioner shall be entitled to have the benefit of the interim order already passed by this Court.

The other legal questions are left open to be decided in appropriate cases.

Sd/-
A.V. RAMAKRISHNA PILLAI,
JUDGE

bka/-

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