

Date of Order

:

29-07-2004

**HON'BLE MR. N.P.GUPTA,J.**

Mr.Sanjeev Johari, for the petitioner

Heard learned counsel for the petitioner.

The petitioner seeks to challenge the order Annex.19. The contention of petitioner is that, vide Annex.14, the petitioner was required to fulfill certain requirements and needful was done by the petitioner. Notwithstanding this, vide Annex.19, the petitioner has further been called upon to do very many other needful, and has been directed that, if needful is not done before 31.12.2004, the application will not be processed for the sessions 2005-2006 also.

Look at Annex.14, shows that two things were sought to be clarified. First being, the legally valid land documents & land title certificate, and second was true copy of building plan approved by competent authority. Precisely, the requirements were as under:

(1) Legally valid land documents & Land Title Certificate.

(In the application para 1.1 & 1.2 name and postal address has been mentioned as - "Maa Durga Shikshan Sansthan, Jodhpur (Rajasthan)" and "in front of Jain School, Mahamandir, Jodhpur." Similarly in Land Title Certificate address has been mentioned "In front of Jain School, Maha Mandir, Jodhpur (Raj.)". But against area/measurement, the place has been indicated at "Jaisalmer". In creates some confusion. Kindly

clarify the same).

Further you are required to submit the following documents:-

(1) Copy of the building plan approved by the competent authority.

(The copy of the building plan submitted by the institution/society has not been approved by the competent authority. If located in a Rural area, a Certificate from the Gram Pradhan to that effect and an Affidavit from the Secretary/Correspondent that the college is located in a Rural area.).

Now vide Annex.19, I do not find anything more to have been asked , than what was asked in Annex.14, and the deficiencies have been high-lighted for being clarified. Learned counsel for the petitioner, has not been able to satisfy, in any case, that the second requirement of Annex.14 has ever been complied, rather a look at Annex.19 shows that requirement was not complied with.

At this place I may gainfully consider the documents produced by the petitioner along with the writ petition. A close perusal of the documents annexed with the writ petition transpires that the petitioner simply wants to have the assistance of the Court to seek a march over considerations of larger good.

I Now take up the documents annexed with the writ petition. Annexure-2 is the copy of the Rent Note dt. 15.11.2002 executed by one Shri Narendra Pandaya said to be Sansthapak, Adhyaksh Ma Durga Shikshan Sanstha, Jodhpur executed in favour of one Jait Singh Bhati resident of Badpeda Dist. Jaisalmer, and recites that the first party wants to run a B.Ed. college in the name and style of late Vikram Singh Babu Laxman Singh Gehlot Mahila B.Ed. College in Jaisalmer

District and the premises were purportedly taken on rent at monthly rent of Rs. 25000/-, and stipulating to increase 25% every year. From a close reading of the entire document it does not transpire as to where the premise are located, and what is the description of premises about contents thereof. Apart from the fact that since the lease purports to be stipulating 25% annual increase in the rent, it is a lease for a period beyond one year, and was required to be registered while it purports to be merely on non-judicial stamp of Rs. 100/-. Then Annexure-3 certifies that the house of Jait Singh situated at Majdoorpada to be not in a damaged condition, and fit for use. This certificate purports to be signed by the Commissioner, Municipal Board Jaisalmer. Then Annexure-8 purports to be a Land Title Certificate by the Advocate which gives the address of the land which is said to be certified to be "in front of Jain School Mahamandir, Jodhpur (Rajasthan) and this is said to be the location, and area / measurement is given as 5554 Sq. ft. at Jaisalmer (Raj.) Rented Building. Then, when vide Annexure-10 dt. 4.2.2003 the petitioner was called upon to furnish legally valid land documents and copy of the building plan, as the society had not submitted any document in support of land title, the petitioner claims to have written Annexure-13 requesting for giving recognition in the next year 2004-2005. Then the petitioner receives Annexure-14 as noticed above, and in reply petitioner gives Annexure-15 dt. 29.12.2003 enclosing therewith a certificate of Gram Panchayat Amar Sagar, and the affidavit of the Secretary. According to the affidavit forming part of Annexure-15 revenue land bearing Khasra No. 172 in village Kishanghat of Gram Panchayat Amar Sagar was said to have been allotted, on which B.Ed. College shall be constructed, and then it was deposed that the College will be constructed in rural area. The certificate enclosed is of Sarpanch, Gram Panchayat Amar Sagar certifying that the land stands allotted, and if the Institute constructs the college,

Panchayat has no objection. Then Annexure-16 dt. 12.1.2004 has been written, requesting for inspection, and then vide Annexure-18 copy of the judgment of this Court dt. 13.4.2004, being Annexure-17, was enclosed, by which judgment the State Government, Dy. Secretary, Education (Group-I), and Joint Director (Training), Secondary Education were directed to issue NOC in favour of the petitioner Society to run B.Ed. course for the academic session 2004-05, and at the same time the direction was declined against NCTE, as it was to consider the application of the petitioner only when the same is submitted before it, and hope was expressed that needful would be done as expressed in the letter dt. 7.2.2003 (Annexure-13 in the writ petition).

It is thereupon that the petitioner had received Annexure-19 whereby it was pointed out that the petitioner was called upon to furnish, inter alia, legally valid land documents, Copy of the building plan, approved by the competent authority, A Sworn Affidavit verifying the contents given in the application form, and the documents attached therewith duly attested through a First Class Magistrate / SDM / ADM, No Objection Certificate in original issued by the State Government, and Land Title Certificate duly attested with seal of local practicing lawyer affixed on it in original, and then the petitioner was reminded vide present Annexure-19, that the revalidation of No Objection Certificate has not been made, and then in pursuance of the direction given in the writ petition filed by the Institution the matter of the institution was again placed before the Northern Regional Committee, in its meeting held on 23-24 June, 2004, and it was found that the application is still deficient, and the deficiencies were simply detailed under the head of Legally valid land documents, by mentioning that the Institution has submitted an unregistered rent note / agreement which does not fulfil the

norms / ownership of land / land and building in favour of the institution or managing society, then photo stat copy of the Jamanbandi and trace map of Khasra No. 172 were submitted but none of these documents could establish ownership of land in favour of the petitioner, then certain more documents were submitted with regard to land measuring 19.07 bighas of Khasra No. 172 situated in village Jaisalmer for which proposals are going on with the State Govt. to allot the same in favour of the petitioner but there is no conveyance deed creating ownership in favour of the petitioner, in the absence of which it cannot be taken that the land belongs to the petitioner. With this it was pointed out, that the requirement, is that in order to provide infrastructural facilities for conducting the teaching course, the management, shall at the time of making application have in its possession adequate land, land and building on ownership basis free from all encumbrances, and it was conveyed, that in absence of valid title / ownership document of land where teaching course is to be conducted by providing infrastructural facilities, permission for the course cannot be granted by NRC. Likewise, in para-3 regarding building plan it was also conveyed that photocopies of the alleged plan are not building plan of the institution, but appear to be attached with rent note, which does not fulfil the requirement. Apart from the fact that they do not contain any approval or sanction of any local authority, and description of the land on which the said building are proposed has also not been given, while according to the requirement the building plan should be approved and sanctioned by the local authority, and the land/ land and building should be in ownership of the institution/management.

Needless to notice that after all the petitioner claims to run Teacher's Training College for B.Ed. Course, product whereof is to educate the next

generation of the country, for which, if the authorities want the institute to have requisite infra-structure facilities, and simply want to ensure the institute to be owning building and land, the building having approved plan from the competent authorities, it cannot be said that authorities are in any manner wrong. Absence of infra-structure facilities, and absence of proper requisite building, or a rented building, may of course enable the management to earn their livelihood by running the Institute, but it is to be comprehended, that it cannot fulfil the purpose of giving the requisite product, of requisite level, to educate the next generation. The quality of persons at the helm of affairs, in the petitioner's management, is writ at large, from a bare perusal of document Annex.16, being a letter addressed by the Secretary of the Institution, asking for inspection; inasmuch as, and in the subject, so also in the body, even the word "inspection" has not been correctly used, rather in the body, the word is written in hindi as "इन्फेक्सन". Likewise, in the subject, it has been mentioned as "इस्फैक्सन". If the Institution does not have the comprehension of difference between "इस्फैक्सन" and "इन्सपेक्शन" one can only comprehend as to what kind of education they are going to impart, and whether they can at all be said to be of requisite level? It is obviously for the authorities concerned to seriously look into the matter, and ensure the proper level of education to be imparted, and not to simply grant permission, as if they are granting licence to some industry.

In view of above, I do not find any ground to interfere with Annex.19, accordingly, writ petition is dismissed summarily.

**(N.P.GUPTA),J.**

Srawat/-