

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JANUARY, 2021

BEFORE

THE HON' BLE MR.JUSTICE R. DEVDAS

WRIT PETITION NO.14952 OF 2020 (EDN-RES)

BETWEEN

SRI SARASWATHI VIDYA SAMSTHE
BANDARAHALLI
KAVALAGUNDI POST
BHADRAVATHI TALUK
SHIMOGA DISTRICT-577301
BY ITS SECRETARY

...PETITIONER

(BY SRI M P SRIKANTH, ADVOCATE FOR
SRI PARTHASARATHI M S, ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA
BY ITS SECRETARY TO GOVERNMENT
PRIMARY AND SECONDARY EDUCATION
M.S BUILDING
DR AMBEDKAR VEEDHI
BANGALORE-560001
- 2 . THE COMMISSIONER FOR
PUBLIC INSTRUCTIONS
NEW PUBLIC OFFICES
NRUPATHUNGA ROAD
K.R CIRCLE
BANGALORE-560001

- 3 . THE DIRECTOR OF PUBLIC INSTRUCTIONS
PRIMARY EDUCATION
NEW PUBLIC OFFICES
NRUPATHUNGA ROAD
K.R CIRCLE
BANGALORE-560001
- 4 . THE DEPUTY DIRECTOR OF
PUBLIC INSTRUCTIONS
SHIMOGA DISTRICT
SHIMOGA-577201
- 5 . THE BLOCK EDUCATION OFFICER
DEPARTMENT OF PUBLIC INSTRUCTIONS
BHADRAVATHI TALUK
SHIMOGA DISTRICT-577201

...RESPONDENTS

(BY SMT PRAMODHINI KISHAN, AGA FOR R1 & R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT DTD 24.09.2020 VIDE ANNEXURE-L AND ETC.

THIS WRIT PETITION IS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R. DEVDAS J., (ORAL):

The petitioner-Institution which started Kannada Medium School in the year 1990 made an application initially, in the prescribed Form on 30.10.2015, seeking permission to start

English Medium Primary School. Thereafter consecutive applications have been filed. The application has been rejected by the Deputy Director of Public Instructions (Administration), Public Education Department, Shivamogga by an order dated 24.09.2020, at Annexure-L.

2. Learned Counsel for the petitioner submits that as evident from the impugned order, the Deputy Director of Public Instructions had rejected the application on the ground that 'Three Members Committee' has pointed out to certain deficiencies and in generally it is stated that in accordance with Rule 5A of the Karnataka Educational Institutions (Classification, Regulation and Prescription of Curricula etc) (Amendment) Rules, 2018, necessary school infrastructure, school health and transportation, personal and sexual safety, social and emotional safety, procedure for reporting of abuse, emergency prepared and disaster management, cyber safety etc., was required to be provided. It is simply stated in the order that there is non-fulfillment of those conditions, therefore the application has been rejected.

3. Learned Counsel draws the attention of this Court to Section 31 (3) of the Karnataka Education Act, 1983 and submits that the registering authority shall within a period of three months from the date of receipt of the application; register the institution and issue a certificate in the prescribed form, if the conditions specified or prescribed for registration have been complied with; or in terms of sub-clause (b) of Clause (3), specify or extend from time to time, the period for compliance with such conditions. Learned Counsel therefore submits that the Deputy Director of Public Instructions could not have rejected the application. He was duty bound to bring to the notice of the petitioner the deficiencies pointed out by the expert body and time was required to be extended allowing the petitioner to comply with the deficiencies pointed out by the expert body.

4. Per contra, learned Additional Government Advocate submits that the deficiencies pointed out by the expert body has been brought to the notice of the petitioner through Block Education Officer. Learned Additional Government Advocate draws the attention of this Court to Annexure-R1 filed along with

statement of objections to point out a copy of Form No.2, which is the Check List prepared by the expert body and in Col.No.22, deficiencies have been particularly culled out. Moreover, it is submitted that the application was made for the academic year 2019-20 and by any stretch of imagination the said application cannot be considered at this stage even if there is compliance of the deficiencies pointed out by the expert body.

5. On a close reading of the impugned order dated 24.09.2020, it does not appear that the deficiencies pointed out by the expert body/three member committee was made known to the petitioner. This is evident because the three member committee has opined that there is no infrastructure provided for establishment of English Medium Primary School; the lease agreement does not show that it has been registered before the competent authority; it does not disclose that the construction was put up after obtaining building license from the City Municipal Council, Bhadravathi, etc. It is the submission of the learned Counsel for the petitioner that the institution has been established in an area of around one acre of land and there is

sufficient space. It is also an admitted fact that the institution was established in the year 1990 and is an aided institution.

6. Nevertheless, on the face of it, the impugned order does not disclose that the deficiencies pointed out by the expert body was made known to the petitioner-Institution, or that time was granted in accordance with Section 31(3)(b) of the Act. In the considered opinion of this Court, in terms of Section 31(3)(b), even if there was any deficiencies found, the same was required to be put to the applicant and time should have been granted to remove those deficiencies and if the deficiencies were made good the registering authority was once again required to consider the application. Such exercise has not been undertaken by the respondent-Deputy Director of Public Instructions.

7. Nevertheless, as rightly submitted by the learned Additional Government Advocate, the application was made on 14.02.2020, online and the academic year 2020-21 has commenced delayedly from the month of October, 2020 due to

COVID-19 pandemic. Otherwise, the academic year would normally commence during the month May/June of every year.

8. With these observations, this writ petition stands disposed of with a direction to the 4th respondent-Deputy Director of Public Instructions to furnish all the information and deficiencies pointed out by the expert body/three member committee to the petitioner-Institution so that the petitioner-Institution could comply with the same and make a fresh application for the next academic year.

It is ordered accordingly.

**Sd/-
JUDGE**

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