

(2007) 04 CAL CK 0002

Calcutta High Court

Case No: F.M.A. No. 171 of 2002

Radhika Town High School and
Another

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision: April 10, 2007

Citation: 111 CWN 963

Hon'ble Judges: Pranab Kumar Chattopadhyay, J; Arunabha Basu, J

Bench: Division Bench

Advocate: Bikash Ranjan Bhattacharyya, Subir Sanyal and Saktipada Jano, Tulsidas Maity,
for the Appellant; Tara Prasad Haider, for the Respondent

Final Decision: Allowed

Judgement

Pranab Kumar Chattopadhyay, J.

This appeal has been preferred from the judgment and order dated 10th August 2001 passed by the learned Single Judge in W. P. No. 19431 (W) of 2000 whereby and whereunder the said learned Single Judge dismissed the aforesaid writ petition. From the records it appears that the school authorities filed a separate writ on the earlier occasion hearing A.S.T. No. 2787 (W) of 1998 before this court alleging that the concerned respondent authorities did not take necessary steps for granting recognition to the said school pursuant to the order passed by this Hon'ble court. In the aforesaid writ petition, the said school was inspected by the District Level Inspection Team and the members of the said District Level Inspection Team unanimously recommended for granting recognition to the said school as 4-Class Junior High School without financial assistance and benefit.

2. In the said report of the District Level Inspection Team it was specifically mentioned that the said school fulfils all the norms and conditions required for recognition as 4-Class Junior High School without financial assistance and benefit. Ultimately, the Secretary, Education Department, Government of West Bengal as well as the concerned authorities of the West Bengal Board of Secondary Education

decided not to grant recognition the said school as a 4-Class Junior High School. The Secretary, Education Department while expressing his views specifically observed that though the District Level Inspection Team has recommended for recognition of the school as a 4-Class Junior High School but the said department could not agree with the said recommendation on the following grounds :

- 1) the school has shown only 1440 sq. ft. land in possession which is inadequate for a school and moreover there is no entry showing the nature and date of possession;
- 2) the school has shown its building is a rented one. There are 15 rooms measuring about 190 sq. ft. each, which are not at all fit for teaching/learning situation;
- 3) the school has a reserve fund of only Rs. 5000/-, a general fund of Rs. 22,228/-. It indicates that the financial position of the school is not sound enough to run on its own without the assistance of the State.

3. The Recognition Committee of the West Bengal Board of Secondary Education also resolved in its meeting held on 3rd July, 2000 expressing its inability to recommend granting recognition to the said Radhika Town High School in view of the deficiencies as mentioned in the report of the Secretary, Education Department. The Executive Committee of the Boas i in its meeting held on 12th July, 2000 vetted the aforesaid resolution and decided not to grant recognition to the said school even as 4 Class Junior High School.

4. Challenging the aforesaid decision of the Board, appellants herein filed the writ petition, which was ultimately dismissed by the impugned judgment and order passed by the learned Single Judge. It is not in dispute that the Secretary, Education Department, Government of West Bengal did not specifically recommend for granting recognition to the said school as a 4-Class Junior High School inspite of specific recommendation of the District Level Inspection Team only on the alleged ground of poor infrastructure of the said school, which was accepted by the concerned authorities of the West Bengal Board of Secondary Education. The prayer of the appellants for grant of recognition to the school in question has been rejected by the Board solely on the ground of inadequacy of space of (lass-rooms and poor financial condition of the said school.

5. During the course of hearing of the instant appeal, a supplementary affidavit has been filed on behalf of the appellants wherein certain subsequent improvements and developments in respect of the school in question have been specifically mentioned and the same are summarised hereinbelow:

- 1) The management of the school in question has taken a lease of the land measuring about I Cottahs 14 Chittaks in Plot No. 29, which is adjacent to the Plot No. 30. After taking possession of the land in Plot No. 29, the school management has constructed a big well-ventilated building consisting of plot Nos. 29 and 30 including the existing school building.

2) Under the Plot No. 29, there is a building consisting of 6 rooms with electricity facility. In the ground floor, there are three (31 rooms which is measuring about 200 sq. ft. each and in the first floor, there are three rooms, of course, of asbestos sheds which are measuring about 600 sq. ft.

3) There is a big play ground adjoining the school premises. The said play ground is being looked after by Rishra Municipality and Rishra Municipality has permitted the school management to use the said play ground. The school has already held all its game and annual sports in the said play ground.

4) The school has purchased six computers for teaching students.

5) The school management has improved its financial condition to a considerable extent. In the Supplementary affidavit at paragraph 6, it has been stated that the sum of Rs. 1,41,376/- is lying in the school account with Central Bank of India, Rishra Branch. The said fund of the school has been further increased in the meantime to the tune of Rs. 1,64,900/- lying in the school account No. 7391 at Central Bank of India, Rishra Branch.

6) The students of Radhika Town High School were winner of Sreerampore Sub-Divisional Cricket Competition. They also became runners of District School Tournament under Hooghly District Sports Association in the year 2005-06. The students of the school have also qualified as the Winner U-19 School Tournament of the Sreerampore Sub-Divisional Sports Association for the year 2006-07.

6. Admittedly, the school was inspected by the District Level Inspection Team, headed by the District Inspector of Schools himself being the fact finding authority to determine whether the management of the school has complied with and fulfilled all the necessary requirements for granting recognition by the Board. The District Level Inspection Team, being the fact finding authority for the purpose of granting recognition, has categorically come to the finding that "the school fulfils all the norms and conditions required for new recognition as 4-Class Junior High School (without financial assistance and benefit)". The management of the school applied for granting recognition to the said school as Class-X High School, but the District Level Inspection Team, on inspection, recommended for granting recognition as 4-Class Junior High School without financial assistance. This sufficiently demonstrates that the District Level Inspection Team being the fact finding authority came to the said conclusion and finding on the basis of its physical inspection of the school in question.

7. The conditions required to be fulfilled by the school seeking recognition as Junior High School are summarised hereunder:

1) The school building should have structure with good ventilation and spacious rooms for holding classes. Each room must have a floor space of at least 400 sq. ft. so that space may be provided at the rate of 10 sq. ft. per pupil.

If the school is held in a rented building, building must be leased out to the management of the school on a long term lease basis.

2) Proper sanitary- facilities must be provided and there should be sufficient number of latrines and urinals and separate arrangements should be made for teachers and pupils. If there are girl pupils or lady teachers, separate sanitary arrangements must be made for them.

3) The teaching staff must consist of Headmaster and four (4) assistant teachers. Out of them, two must be graduates.

4) The 4-Class Junior High School should have a Reserve Fund of Rs. 1,500/- invested in Postal Savings Bank Account or National Certificate.

8. According to the prescribed conditions, measurement of each class room has been fixed atleast 400 sq. ft. by taking Teacher-Pupil ratio, 1 : 40. There is no bar for reducing the teacher-pupil ratio to 1 : 15 or 1 : 20. More so when, reduction of teacher-pupil ratio will be more conducive and ameliorating for imparting education to the students, as the students will be better looked after by the teachers if the total number of students is reduced in each class room. In any event, admittedly, as it appears from the views of the Secretary, School Education Department, based on the recommendation/report of the District Level Inspection Team, there are 15 rooms measuring about 190 sq.ft. each in three floors of the school building. The school has been recommended as a 4-Class Junior High School and under the prescribed conditions, the school is supposed to have total 4-Class rooms and each must be of atleast 400 sq. ft. space. At present, the measurement of each room is 190 sq. ft. and then are 5 rooms in each floor of the school building. Therefore, the school may convert the available space in each floor by converting three rooms into two class rooms in each floor of measuring about 475 sq. ft. The aforesaid facts clearly demonstrates that the appellants i.e. the management of the School have duly complied with the requirement of space/area.

9. There is no denial that the school building is well ventilated and have electricity facilities. Admittedly, the land has been leased out to the management of the school and the building has been constructed by the school management. There are proper sanitary facilities both for boys and girls students. No exception has also been taken by any of the respondents with regard to the eligibility of the teaching and non-teaching staff of the School. Therefore, all those conditions are deemed to have been fulfilled by the school management i.e. the appellant/writ petitioner herein. Apart from above, in order to have more class rooms, the school management has already constructed further 6 rooms each measuring about 200 sq. ft. in its adjacent premises on the Plot No. 29. Therefore, no exception can be taken by the Board in regard to sufficiency of space in the school building for the purpose of granting recognition to the school.

10. Furthermore, the school management has improved its financial position to a large extent and the total amount kept in the school fund is of approximately Rs. 1,64,900/- although, according to the condition of the Board itself, the Reserve Fund of the school seeking recognition must be Rs. 1,500/-. The fund of the school is, therefore, much more than the prescribed amount. Therefore, the Board and the State Government should not have taken any exception in regard to the financial position /capability of the school as it cannot be disputed that the present financial status of the school is sufficient to manage the affairs of the school.

11. The learned Counsel of the Board referred to and relied on the following decisions in support of the contentions that the Board is empowered to refuse recognition on the ground of poor infrastructure.

1) 2002(1) C.H.N. 632 [West Bengal Board of Secondary Education vs. Dakhiruddin Khan],

2) 2005(2) C.H.N. 67 (West Bengal Madrasa Education Board & Anr. vs. Shaikh K. Sahajamal & Ors.)

12. Undisputedly, the school building is having 15 rooms measuring about 190 sq. ft. although for the purpose of granting recognition to a 4-Class Junior High School, provision should be made for 4 class rooms each measuring 400 sq. ft. In the aforesaid circumstances, it cannot be said that the school building is lacking adequate space for providing requisite number of class rooms. The larger space has been undisputedly concerted into smaller class rooms of 190 sq. ft. and thus, instead of 4 class rooms the school made provision for 15 class rooms, may be of smaller size. Therefore, the school authorities can be directed either to convert each class into two or more sections upon ensuring the required space per pupil at the rate of 10 sq. ft. as specified in the conditions for granting recognition to a Junior High School or the school management could be directed to convert the small rooms into larger rooms each measuring about 400 sq. ft. by removing the inner partition walls.

13. Mr. Bikash Ranjan Bhattacharyya, learned Senior Counsel representing the school authorities at the time of hearing submitted that following the modern scientific system for imparting education to students, there is no bar for reducing the teacher-pupil ratio to 1:15 or 1:20 instead of 1:40 so that the students can be better looked after by the teachers due to reduction in number of students.

14. Mr. Tulsidas Maity, learned Counsel of the Board referring to the prescribed conditions for granting recognition to a school as 4-Class Junior High School submits that each room must have the floor space of at least 400 sq. ft. so that space may be provided at the rate of 10 sq. ft. per pupil but the present school building having 15 rooms measuring about 190 sq. ft. each does not satisfy the prescribed conditions relating to floor space and size of the class rooms. We are unable to accept the aforesaid contentions of the learned Counsel of the respondent Board.

15. The Secretary, Education Department and subsequently the Recognition Committee as well as the Executive Committee of the Board failed to take note of fact that the school building is admittedly having 5 rooms in each floor and total 15 rooms in the said school building. Therefore, the school can either convert 5 smaller rooms into two class rooms measuring about 475 sq. ft. each in every floor or to ensure better management of the classes can convert each class into more than one section by reducing teacher-pupil ratio to 1 : 15 or 1 : 20 instead of 1:40. The 15 smaller rooms in three floors of the school building can be converted into six larger rooms measuring about 475 sq. ft. each which will satisfy the prescribed conditions with regard to the size of the class rooms.

16. The Secretary, Education Department, and the competent authority of the West Bengal Board of Secondary Education should have directed the school authorities either to convert the smaller rooms into larger rooms by removing the partition/separation walls or to convert each class into more than one section upon providing the space to each student at the rate of 10 sq. ft. per pupil as mentioned in the prescribed conditions.

17. Having heard the learned Counsel appearing for the parties and considering the materials on record available before this, court, we are of the opinion that the respondent Board should reconsider its views and review its earlier decision in the matter of granting recognition to the concerned school as a 4-Class Junior High School in view of the fact that the District Level Inspection Team specifically recorded its finding to the effect that the said school fulfils all the norms and conditions required for granting recognition as 4-Class Junior High School without financial assistance and benefit and the said recommendation of the District Level Inspection Team has also been endorsed and approved by the Director of School Education, West Bengal by Memo No. 757/1(4) dated 12th April, 2000. Furthermore, the Secretary, Education Department, Government of West Bengal instead of refusing to recommended for granting recognition to the said school only advised to improve the conditions of the said school.

18. As discussed hereinabove we have already mentioned that the school building is having adequate building space to accommodate all the students upon providing required standard space at the rate of 10 sq. ft. per pupil. In the aforesaid circumstances, we are of the opinion that the students should not be deprived of school education when the school management has already established a school building of adequate space and decided to run the school without asking for any financial assistance from the Government of West Bengal.

19. The respondent-Board should have taken a practical view in the matter by granting provisional recognition to the concerned school upon imposing conditions to the effect that the said school authorities would either convert each class into more than one section upon providing adequate space for each student at the rate of 10 sq. ft. per pupil or convert the smaller class rooms into larger ones upon

removing internal partition walls apart from any other condition as the competent authority of the said Board would consider fit and proper. In the event, the terms and conditions mentioned by the Board while granting the provisional recognition of the school are fulfilled then permanent recognition should also be granted by the Board. Therefore, we direct the West Bengal Board of Secondary Education and its appropriate authorities to review its earlier decision as mentioned in the order dated 24th July, 2000 within a period of three weeks from date positively and grant provisional recognition to the said school subject to conditions that the school authorities will either convert each class room into more than one section by providing adequate space for each student at the rate of 10 sq. ft. per pupil or enlarge the size of the class rooms to a size atleast about 400 sq. ft. upon removing the inner partition walls. The aforesaid provisional recognition should be granted initially for a period of one year and upon being satisfied about the fulfilment of the imposed conditions by the Radhika Town High School management, the said Board will grant permanent recognition to the concerned school subsequently. Needless to mention that the State Government will not bear any financial assistance under any circumstances.

20. In view of the aforesaid directions, the earlier decision of the Board as communicated to the Secretary, Radhika Town High School by the Secretary, West Bengal Board of Secondary Education by Memo No. S/ 404 dated 24th July, 2000 stands quashed and the impugned judgment and order under appeal passed by the learned Single Judge on 10th August, 2001 is also set aside.

21. This appeal thus stands allowed. There will be, however, no order as to costs. Let urgent xerox certified copy of this judgment and order, if applied for, be given to the learned Advocates of the parties on usual undertaking.

Arunabha Basu, J.

I agree.