



Serial No. 07
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 465 of 2018

Date of Decision: 08.02.2021

Arya Samaj, GS Road,
Shillong & Anr.

Vs.

State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. M.F. Qureshi, Adv.

For the Respondent(s) : Mr. H. Abraham, GA (For R 1-3)
Mr. V.K. Jindal, Sr. Adv. with
Ms. E. Marwein, Adv. (For R 4-6)

- | | | |
|-----|---|--------|
| i) | Whether approved for reporting in Law journals etc. | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

ORAL

1. The petitioner by the instant writ petition is aggrieved with the action of the respondent No. 3 i.e. (District School Education Officer) in granting approval to the proposal for the re-constitution of the Managing Committee of the Arya Vidyalaya Secondary School, Jhalupara, Shillong which they maintained was accorded without scrutiny and without the consent or recommendation of the sponsoring body which is the petitioner (Arya Samaj).



2. I have heard learned counsel for the parties.

3. Mr. M.F. Qureshi, learned counsel for the petitioner submits that the School in question is a minority School and the Arya Samaj, Shillong is the Sponsoring Body of the said School. He submits that other previous Managing Committees of the School were constituted by the Arya Samaj or under the direction and supervision of the petitioner No. 1. He further submits that the outgoing Managing Committee before the expiry of its term on 26.07.2018, convened a meeting on 21.07.2018 to elect the Secretary and other nominated Members and the proposal arrived at, was sent to the petitioner by the outgoing Secretary vide letter dated 22.07.2018.

4. The learned counsel submits that however, without awaiting the approval from the petitioner, the respondent No. 4 & 5 submitted the proposal for reconstitution of the Managing Committee, to the respondent No. 3, who acting in haste accorded approval within 2(two) days vide order dated 25.07.2018 which is impugned herein. Learned counsel submits that the approval could not have been accorded without the knowledge and approval of the petitioner, inasmuch as, the petitioner is the Sponsoring Body. In this context, he submits that the Hon'ble Gauhati High Court which was the then jurisdictional High Court had held in the case of **Arya Samaj & Ors. vs. State of Meghalaya** reported in **2000 (3) GLT 656**, that the petitioners are left to constitute the Managing Committee of the School in accordance with the Memorandum of Association/Bye-Laws. Learned counsel submits that the final recommendation not having come from the petitioner body, the



approval on the basis of the recommendation given by the outgoing Managing Committee is in violation of the Memorandum of Association and of the order of the High Court. He submits that though representation has been filed on 06.08.2018 (Annexure-F), the same was never answered. Learned counsel has also highlighted the fact that the State respondents themselves in Para-6 & 7 of the affidavit-in-opposition have admitted they were not aware about the existence of a Sponsoring Body of the School nor of the Memorandum of Association, inasmuch as, the proposal submitted by the outgoing Managing Committee was silent about both these aspects. As such he submits, the approval even by the statement of the State respondents is irregular and not based on full disclosure of facts. For these reasons he prays that the approval dated 25.07.2018 for reconstitution of the Managing Committee be set aside and quashed.

5. Mr. V.K. Jindal, learned senior counsel assisted by Ms. E. Marwein, learned counsel for the respondents No. 4 & 5 submits that it is undisputed that the Arya Samaj School a minority institution is a Government aided school, and as such the reconstitution of the Managing Committee should be as per the Act, Education Rules and Orders of the State as applicable. He submits that there has been no allegation that the Managing Committee was not constituted as per the prevalent rules but the only grievance it seems, is that the final proposal was not routed through the petitioner (Arya Samaj). He further contends that the approval from the Arya Samaj is not an absolute necessity, and in this regard has placed the Memorandum of Association and submits



that Article-38 is the only provision in the MoA that speaks about the role of the petitioner in relation to educational institution under the control and supervision of the Arya Samaj. Article 38 he submits only stipulates that the President of the Arya Samaj shall be the President of the Managing Committee of all the educational institutions under the control and supervision of the Arya Samaj but however, this was subject to the approval of the Government. Learned senior counsel relying on the same judgment submits that the findings recorded at Para-12 also speaks that there is no provision of the State Act i.e. the Meghalaya School Education Act, 1981 that is in derogation of the right of the petitioners guaranteed under Article 30 of the Constitution. He therefore submits that there is no illegality in the approval so accorded and furthermore the President of the Arya Samaj is also the President of the newly constituted Managing Committee. On these grounds he contends the writ petition does not deserve any consideration.

6. Mr. H. Abraham learned counsel for the State respondents No. 1 & 2 in his short submission has relied on and reiterated the averments made in the affidavit of the State.

7. Having heard learned counsel for the parties, it is firstly noted that the Managing Committee in question has been functioning since 26.07.2018 and its term is due to expire on 25.07.2021 which is a period of only about 4(four) months from today. To truncate or to interfere with the constitution of the Managing Committee at this stage would be counterproductive to the health of the institution and to the



ends of justice, inasmuch as, the term is about to expire and by due course, the process for reconstitution shall have to commence shortly.

8. In this backdrop therefore, it would be expedient for the ends of justice, more so in view of the statement of the State respondents as to their ignorance about the existence of a Sponsoring Body and the said Memorandum of Association, that in the reconstitution of the next and future Managing Committees of the school, the state respondents before grant of approval shall take into consideration the following factors i.e.

(i) that the school is a minority institution protected under Article-30

(ii) the extent of control by State respondents over the constitution of the Managing Committee considering it is an aided school, by taking into account Section 21 and Section 31 (xxvi) of the Meghalaya School Education Act, 1981 and relevant Education Rules and Orders as adapted

(iii) that the Arya Samaj (petitioner) is the Sponsoring Body with a Memorandum of Association regulating its functions and its supervision over its educational institutions.

9. There being no other point for consideration, this writ petition stands disposed of in terms of the directions as given herein above.

JUDGE

Meghalaya
08.02.2021
"V. Lyndem-PS"