



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 15637/2009

Managing Committee Seth Motilal (P.G.) College, Ranisati Road,
Jhunjhunu

-----Petitioner

Versus

1. State Of Rajasthan through Principal Secretary, Higher Education, Secretariat, Jaipur.
2. Commissioner of College Education, Government of Rajasthan, Shiksha Sankul, J.L.N. Marg, Jaipur.

-----Respondent

Connected With

S.B. Civil Writ Petition No. 2743/2010

Vedic Kanya Post Graduate College, Arya Samaj, Raja Park, Jaipur
through its President Sh. Satyavrat Samvedi.

-----Petitioner

Versus

1. The State Of Rajasthan through Secretary, College Education, Government of Rajasthan.
2. Commissioner, College Education, Directorate of College Education, Gandhi Nagar, Jaipur.

-----Respondent

S.B. Civil Writ Petition No. 4650/2010

1. Managing Committee Seth Gyani Ram Banshidhar Podar College, Ram Bilas Podar Road, Nawalgarh District Jhunjhunu through its Secretary Shri RBL Agarwal.
2. Shri RBL Agarwal son of Shri Shyam Behari Lal R/o Nawalgarh. District-Jhunjhunu.

-----Petitioner

Versus

1. State Of Rajasthan through Principle Secretary, Department of Higher Education, Secretariat, Jaipur.
2. Commissioner, College Education, Shiksha Sankul, Rajasthan, Jaipur.

-----Respondent



For Petitioner(s) : Mr. Ajit Maloo
Mr. Pratyush Sharma
Mr. Harsh Pratap Singh
For Respondent(s) : Mr. Aditya Singh, Dy. GC

HON'BLE MR. JUSTICE AVNEESH JHINGAN

Order

05/09/2024

1. These three writ petitions are being decided by this common order as the facts and issue involved are same.
2. For the convenience, facts are being taken from S.B. Civil Writ Petition No.2743/2010.
3. The brief facts are that the petitioner is running a Government aided Educational Institution for Under Graduate and Post Graduate Courses. The petitioner was granted 90% aid vide order dated 01.04.1985. In the meeting of the Committee for Grant-in-Aid convened on 08.08.2006, exercising power under Section 13(3) the grant-in-aid of forty six institutions was reduced from 90% to 80%. In pursuance of the meeting, vide order dated 14.10.2009, the category of petitioner-institution was changed to Grade-A thereby reducing the grant-in-aid to 80%. The name of the petitioner is at Sr. No.19 in the order.
4. Learned counsel for the petitioner submits that as per Section 7(6) of the Rajasthan Non-Government Educational Institutions Act, 1989 (for short 'the Act') the sanctioning authority has power to stop, reduce and suspend the grant in aid only on breach of any terms and conditions, whereas there was no breach of terms and conditions. It is argued that no opportunity of hearing was granted and the order does not give reason for changing the category and reducing the grant-in-aid.

5. As per contra the grant-in-aid is not a matter of right. The argument is that under Section 7(6), the Sanctioning Authority is empowered to reduce, stop and suspend the grant-in-aid. Further as per Rule 10(xv) of the Rajasthan Non-Government Educational Institutions Rules, 1993 (for short 'the Rules of 1993') grant-in-aid is to be paid subject to availability of funds. Contention is that the infrastructure of the institution had been fully developed and full grant-in-aid was not required to be given thereafter.

6. As per Section 7(1) of the Act the grant-in-aid cannot be claimed as a matter of right and can be stopped by the State Government at any time. Under sub section 2 the unrecognized institutions are not eligible to receive aid. Sub section 3 empowers the sanctioning authority to distribute the aid as per the procedure provided, subject to the prescribed terms and conditions. As per sub-Sections 4 and 5, the aid shall cover prescribed expenditure of the institution and the amount of aid given for the salary of the employees is not to be used for any other purpose. The sanctioning authority under sub section 6 is empowered to reduce, stop and suspend the aid in case of breach of terms and conditions. Sub-section 7 obligates that the amount of the aid is normally to be paid to the Secretary but in special circumstances may be paid to any other person subject to recording of reasons.

7. The procedure for Assessment of Annual Recurring grant is under Rule 13. As per sub-Rule (1), the grant is to be given on the basis of prescribed expenditure subject to adjustment in the next year. Sub-Rule (2) provides that approved expenditure is to be considered as per the Rules and instructions issued from time to time for determining the percentage of grant-in-aid. Categories

have been provided in sub-Rule (3) and as per the notes to sub Rule 3, the grant-in-aid can be increased or decreased by the Grant-in-aid Committee after three years on the basis of Inspection Report, general improvements and principles of categorization. It stipulates that the institution to special category shall be admitted after examination of the case according to the category prescribed in Appendix-VII.

8. Rule 18 stipulates procedure for the sanctioning authority to stop, reduce or suspend the Grant-in-aid on being satisfied of failure of the management to abide with terms and conditions or comply with the provision or to manage institution efficiently, but before doing so it is obligated that management shall be given an opportunity to show cause for the charges leveled.

9. The principles of natural justice for reducing, stopping and suspending the grant-in-aid has been provided in Rule 18.

10. From the perusal of the minutes of meeting held on 08.08.2006 and the order dated 14.10.2009, it is evident that the for changing the category and reducing the Grant-in-aid, the petitioner was neither issued a show cause notice nor supplied reasons for doing so. The order passed is in violation of principles of natural justice and the procedure prescribed in Rule 18.

11. The contention of learned counsel for the respondents that grant-in-aid is not a matter of right, is noted to be rejected. Section 7(1) provides that no aid shall be claimed by the institution as a matter of right. This provision shall come into play at initial stage of sanctioning of the aid. Once aid is granted, for changing the category or suspension or reduction or stopping of aid, procedure prescribed has to be followed. The change of

category and reduction of the grant-in-aid has civil consequences and effect the education of students of institution. It is settled law that even while passing administrative order having civil consequences, the reasons are not only to be recorded but are to be supplied to the affected parties.

12. Another aspect to be considered is that neither in the meeting held on 08.08.2006 nor in the order dated 14.10.2009, reference was made to any adverse material collected by the Committee against the institution or that an inspection report has been received to make a basis to proceed under Rule 13(3) or that due to development of infrastructure the aid is being reduced.

13. The argument of the learned counsel for the respondents relying upon Rule 10 clause (xv) that the grant-in-aid shall be paid subject to availability of funds and can not be claimed as a matter of right is of no avail. It is not a case set up in the minutes or the impugned order that reduction of grant was on the ground of non-availability of funds.

14. The impugned order and minutes of meeting are quashed and the writ petition is allowed.

15. It is clarified that the success of the institution in these writ petitions shall not debar the respondents to proceed in accordance with law, if so advised.

(AVNEESH JHINGAN),J

Riya/Sunita/63-65