SUPREME COURT OF INDIA

Maruti Dada Patil Sarvangin V. Sanstha

Vs.

Hanuman Shikshan Prasarak Mandal

C.A.No.493 of 2003

(R.V. Raveendran J.)

03.07.2008

ORDER

1. The appellant sought permission to start a new secondary school for girls in Nagaj. On 29.5.1999, permission was granted to the appellant to run a co-education school. The first respondent, who was already running a secondary school at Nagaj, challenged the grant of such permission. The Bombay High Court, by its judgment dated 19.7.2000, allowed the writ petition and set aside the order dated 29.5.1999 with a direction to consider the appellant's application by giving a hearing to the appellant as well as the first respondent and then pass appropriate orders. Thereafter, the third respondent heard the parties and by order dated 20.4.2001, cancelled the permission granted to the appellant. However, later, the State Government by order dated 20.7.2001 withdrew the cancellation.

2. Feeling aggrieved, the first respondent again approached the Bombay High Court in W.P. No.854/2002. During the pendency of the said petition, the district level Committee reconsidered the application and passed a resolution dated 10.7.2002 recommending the grant of permission. However, on 9.8.2002, the High Court allowed the second writ petition filed by the first respondent and set aside the order dated 20.7.2001 passed by the Government whereby the cancellation dated 20.4.2001 was withdrawn. The order of the High Court is challenged by the appellant in this appeal by special leave. On 20.1.2003, while granting leave, this Court stayed the order of the High Court and permitted the appellant to run the school in accordance with the regulations.

3. The resultant position is that the appellant, who was granted permission to run the school on 21.5.1999, has been continuously running the secondary school for about eight years, with short periods of cancellation. When the matter was heard today, learned counsel appearing for the State Government submitted that between the period when the appellant originally sought permission and now, the demand for schools in the area has grown and in fact the area requires more schools and the State has no objection for the continuation of the appellant's school.

4. The objection to the continuation of the appellant's school is only by the first respondent which is a rival school. The objection is on the ground that there is no need for any new school and that a new school will lead to unhealthy competition and may also result in existing school being closed. It is also contended that the appellant had adopted illegal and irregular means for getting the permission to start the school.

5. The contention of the first respondent that there is no need for school has lost relevance in view of the specific stand of the State Government that in fact these two schools are not sufficient and that further schools are needed in the area. The apprehension that a new school may lead to unhealthy competition and closure of the existing school is baseless, as competition improves efficiency and excellence and the existence of appellant's school for nearly eight years, has not affected the first respondent's school. No prejudice is caused to the first respondent by the appellant continuing its school. By virtue of the interim order passed by this Court, the school has been running for more than five years. It is also not in dispute that the appellant has also constructed buildings and provided infrastructure required for the school and it has been running for quite some time. In these peculiar circumstances, it is not necessary to examine the several technical objections of the first respondent.

6. We, therefore, allow the appeal, set aside the order of the High Court and permit the appellant to continue the school in accordance with the regulations, in pursuance of permission already granted.