

Aarif Akeel Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Aug-02-2013

Appellant : Aarif Akeel

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. A.Usmani

Judgement :

1 W.P. No.11101 o

02. 08.2013 Shri A.Usmani, counsel for the petitioner. Shri P.K.Kourav, Addl. AG for respondent No.1. None for the others as no notice has been issued to respondents 2 to 9.

1. The grievance of the petitioner, raised in this petition, is that respondent No.3 who has been appointed as Chairman of the Madhya Pradesh Madarsa Board and the respondents No.4 to 9 who have been appointed as nominated Members of the Board are not fulfilling the requirement as envisaged under section 4 and 5 of the Act. It is submitted that the petitioner has already submitted a representation on 14.3.2013 to the Speaker of Vidhan Sabha, Bhopal but till date no action has been taken by the respondents on the representation. It is submitted that respondent No.1 may be directed to decide the representation in this regard.

2. Learned counsel for the petitioner has drawn our attention to section 4 and 5 of the Madhya Pradesh Madarsa Board Adhiniyam, 1998 and submits that the

Chairman should be an Eminent Educationalist appointed by the State Government but the respondent No.3 does not fulfill the qualification of Eminent Educationalist. and, therefore, not entitled for such appointment. It is also submitted that as per section 4, the Members or Ex-Officio Members and other Members nominated by the Government should be; One Scholar in Urdu Language; One Scholar in Arabic Language; Three Chair Persons of well managed Madarsas and Three social workers of repute from the Muslim Community but the respondents No.4 t

2. W.P. No.11101 of 2013 does not qualify the aforesaid criteria. It is submitted that the respondent No.1 may be directed to decide the representation expeditiously. Rule 4 and 5 of the Adhinyam reads thus :-

4. Constitution of Board- The Board shall consist of the Chairman and the following Members, namely :- Ex-Officio Members : (a) The Secretary in charge of the School Education Department, Madhya Pradesh. (b) The Secretary in charge of the Finance Department, Madhya Pradesh. (c) The Secretary in charge of the Backward Classes and Minorities Welfare Department, Madhya Pradesh. (d) The Secretary in charge of the Tribal and Scheduled Caste Welfare Department, Madhya Pradesh. (e) Commissioner of Public Instructions, Madhya Pradesh. (f) Director, State Council of Education Research and Training, Madhya Pradesh. (g) Managing Director, Rajiv Gandhi Prathamik Shiksha Mission, Bhopal. (h) Secretary, Board of Secondary Education, Madhya Pradesh. (i) Managing Director, Texts Books Corporation, Madhya Pradesh. (j) Secretary, Minority Commission, Madhya Pradesh. (k) Chief Executive Officer, Wakf Board, Madhya Pradesh. Other Members nominated by the Government. (l) One Scholar in Urdu Language; (m) One Scholar in Arabic Language; (n) Three Chair Persons of well managed Madrasas; 3 W.P. No.11101 of 2013 (o) Three social workers of repute from the Muslim Community.

5. Appointment of Chairman and term of office and conditions of his services; (1) The Chairman shall be an Eminent Educationalist appointed by the State Government, by notification in this behalf. (2) The term of office and other conditions of service of the Chairman shall be such as may be prescribed.

3. It appears that the petitioner has raised an issue in respect of appointment of respondents No.3 to 9 which as per the petitioner, are not in accordance with the provisions as envisaged under rule 4 and 5 of the Adhiniyam.

4. However, the representation of the petitioner has been addressed to the Speaker of Vidhan Sabha and not to the respondent No.1. In these circumstances, at present, we find it appropriate to dispose of this petition with the following directions :- (a) Petitioner may submit a fresh representation to respondent No.1 agitating his grievance in writing supported by necessary documents if any. (b) Respondent No.1 on receipt of such representation along with the copy of this order shall consider and decide the representation expeditiously as far as possible within a period of 90 days from the date of receipt of the representation. (c) While deciding the representation, 4 W.P. No.11101 of 2013 respondent No.1 shall extend an opportunity of hearing to the petitioner and also to respondents No.3 to 9 who may be the affected persons by such order. It is made clear that this Court has not expressed any opinion on merits of the matter and the respondent No.1 shall be free to deal and decide the matter in accordance with the provisions. At this stage, learned counsel for the petitioner submits that apart from the aforesaid legal issues, petitioner may be permitted to raise the other issues under the Adhiniyam which would go to the route of the case. Prayer is allowed. While filing the representation, the petitioner may raise other issues in respect of the entitlement of respondent No.3 to 9 for aforesaid appointment, however, within the fore corners of the aforesaid Adhiniyam. No order as to the cost. (Krishn Kumar Lahoti) (U.C.Maheshwari) Acting Chief Justice Judge MKL.

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