

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 494 OF 2014

1. Principal, Raj Kumar College, G.E. Road, Tahsil & District Raipur, Raipur (C.G.)
2. Management Committee, through its Chairman, Raj Kumar College, G.E. Road, Tahsil & District Raipur, Raipur (C.G.)

... Appellants

Versus

1. Dr. Anil Khakhariya, S/o Premji Bhai Khakhariya, aged about 50 years,
2. Smt. Nanda Khakhariya, W/o Dr. Anil Khakhariya, aged about 42 years,

both residents of C-80/2, Devendra Nagar, Police Station, Tahsil and Revenue District Raipur, Raipur (C.G.)

3. State of Chhattisgarh, through the Secretary, Chhattisgarh School Education Department, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
4. District Education Officer, Tahsil and District Raipur (C.G.)
5. Collector, Raipur, Tahsil and District Raipur (C.G.)
6. Chhattisgarh State Commission for Protection of Child Rights, through its Secretary, Tahsil and District Raipur (C.G.)
7. Indian Council of Secondary Education, through its Chairman, CISCE, Pragati House, 3rd Floor, 47-48, Nehru Place, New Delhi

... Respondents

For Appellants	:	Mr. Amrito Das, Advocate.
For Respondents No.1 & 2	:	Mr. Anumeh Shrivastava, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Judgement on Board

Per NAVIN SINHA, C.J.

22/12/2015

1. I.A. No. 2 of 2014 has been filed to condone delay of 281 days in filing the appeal.

2. Having heard Counsel for the parties, considering the nature of the controversy, issues involved and that it concerned education of minor children and the undertaking furnished by Respondent No.1 today on affidavit, we consider it proper to condone delay.

3. The present appeal arises from order dated 27.1.2014 in Writ Petition (C) No. 1659 of 2013.

4. The Learned Single Judge relying on Section 16 of the Right to Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as 'the Act') held that the wards of Respondents No. 1 and 2, studying in Class 4 and 7 at the relevant time, could not be expelled from the School being at the stage of elementary education.

5. Learned Counsel for the Appellants sought to urge issues with regard to the inapplicability of the Act to the school contending that the wards of Respondents No. 1 and 2 had not been granted admission in the private educational institution against 25% quota reserved for the weaker sections and therefore the Learned Single Judge ought not to have invoked the provisions of the Act. Alternatively, one of the children was now in Class 9 and Section 16 of the Act had no application. It was lastly submitted that the writ petition against a private non-aided educational institution was not maintainable as it involved no questions of general public importance but was purely a private issue.

6. Learned Counsel for Respondents No. 1 and 2 sought to support the order under appeal.

7. We have considered the submissions.

8. The Learned Single Judge has taken note of the unsavory facts which we do not consider necessary to deal with as we are primarily concerned with the education of the children and the aspect of school

discipline as character foundation is laid for life during school education.

An affidavit has been filed today affirmed by Respondent No.1 which states as follows:-

“I, Dr. Anil Khakhariya, S/o Late Prem Ji Bhai Khakhariya, resident of Devendra Nagar, Tahsil and District Raipur (C.G.), hereby state and solemnly affirms as follows:-

1. That my wards Miss Kousiki Khakharia and Master Vatsal Khakharia are studying at Raj Kumar College since Nursery and presently studying at Class 9th and Class 6th respectively.

2. That I on behalf of my children, hereby undertake, to deposit the fees regularly, as scheduled abide by rules and regulations as prescribed the school authorities, and to maintain discipline and decorum of school as well.”

9. In view of the undertaking given by Respondent No.1, we dispose the appeal in the aforesaid terms leaving all questions of law urged on behalf of the Appellants open for consideration in an appropriate case at a later time, if necessary.

10. The appeal is disposed in terms of the undertaking.

11. Needless to state that the undertaking, in the facts and circumstances of the case, will override the observations made by the Learned Single Judge. Subject to compliance of the same, the wards of Respondents No. 1 and 2 will be allowed to continue their education.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge