

203 CMs-2449-50-2013 in/and
RA-56-CWP-2013 in
CWP-5350-2011

Ankit (Minor) Vs. Union of India & ors.

Present: Ms. Anjali Kukar, Advocate
for the applicant/UOI.

Mr. Balraj Gujjar, Advocate
for the non-applicant/petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

CM-2449-2013

Prayer in this application is to condone the delay of 469 days in filing the application for review.

Counsel for the parties have been heard and as sufficient cause has been shown, the application is allowed and delay of 469 days in filing the application for review is condoned.

CM-2450-2013

Dismissed as infructuous.

RA-56-CWP-2013

Prayer in this application is to recall order dated 02.11.2011, whereby respondent No.3 was directed to offer admission to the petitioner in class VI, for the academic session 2011-12, under the Right of Children to Compulsory and Free Education, 2009.

Counsel for the review applicant submits that in *Ashish (Minor) Vs. Sainik School Kunjpura & ors.* SLP (C) No.19821 of 2013, decided on 03.07.2014 the Hon'ble Supreme Court has after

quoting a paragraph from its judgment in **Society for Unaided Private School of Rajasthan Vs. Union of India & Anr.(2012) 6 SCC 1** dismissed the special leave petition filed by a student seeking admission in respondent No.3 school. The order dated 02.11.2011 granting admission to the petitioner, may, therefore, be recalled.

Counsel for the non-applicant/petitioner submits that prayer in the application has been rendered infructuous as the petitioner has completed his elementary education and would now pay normal fee for his subsequent education in the school.

I have heard counsel for the parties and find no reason to disagree with arguments advanced by counsel for the review petitioner. However, the petitioner has completed his elementary education and Group Capt LN Sharma, Principal Sainik School Kunjpura, Karnal, has filed an affidavit agreeing to allow the petitioner to continue his studies in the school. A relevant extract from the affidavit reads as follows:

“8. That though the present petitioner has already passed out 8 class as per his claimed entitlement to free education in the year 2014 and is now studying in 9 class on payment of education fee and other charges as applicable and payable by other students of school.

XXXXX

XXXXX

XXXXX

10. That deponent further undertakes that the petitioner being a good student in studies shall

not be made to leave the school, subject to payment of school fee and charges as applicable to other students of school.”

A perusal of the affidavit reveals that petitioner has completed his elementary education and is now studying in class 10. The school has undertaken that as the petitioner is a good student, he shall not be asked to leave the school, subject to payment of school fee and charges as applicable to other students, which obviously relates to fee to be charged after the completion of elementary education. The spirit behind the affidavit is fair and equitable. The stance taken by the school is to be commended.

The review petition is, therefore, allowed and order dated 02.11.2011 is recalled, but it is clarified that the petitioner shall be allowed to complete his studies in terms of the affidavit filed by the Principal of the school.

[RAJIVE BHALLA]
JUDGE

24.04.2015
Vinay