

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO. 2598 OF 2016**

Master Mangal Ashish Pandey & Ors. .. Petitioners
versus
The State of Maharashtra & Ors. .. Respondents

Mr. Sujit Kurup i/b. Kurup Shivaji & Co. for Petitioners.
Ms Kavita S. - AGP for Respondent Nos. 1 to 3.
Mr. Pradeep Tiwari for Respondent Nos. 4 to 7.

**CORAM: DR. MANJULA CHELLUR, C. J. AND
M. S. SONAK, J.**

DATE : 29 NOVEMBER 2016

P.C.:

- 1] Heard learned counsel for the petitioners.
- 2] The petitioners are before this Court seeking protection under the Right of Children to Free and Compulsory Education Act, 2009 (said Act) contending that the respondent management of the educational institution was not justified in expelling four students referred to in the writ petition on whose behalf the present petition is filed. It may be a fact that the common reason for expelling these four students from the school was with the allegation of forged income certificate produced by the guardian / parent of the students at the time of admission of the petitioners to the school in question. Apart from these four students other 145 students are also stated to have been expelled according to the petitioners on the ground of forged documents being produced at the time of admission of the children. The school in question is one Gokuldharm High School. The Trust i.e. respondent no.4 M/s. Goenka & Associates Educational Trust runs schools in the name of Gokuldharm schools.

3] First and foremost what we notice is that the school in question is not the only school in the name of Gokuldham so far as the students herein are concerned. Even otherwise according to the petitioners when once the income certificates of parent / guardian was found fault with, proper income certificates were produced before the school authorities but school authorities are not heeding to the request of the parent / guardian of the students to continue their education in the said school. It is also placed on record that the so-called guardian / parent of the students in question were mislead by a middleman / agent in getting the certificate in question. Apparently one can understand if the mistake has been committed by the minor children who are before us. It is the parents who are aware of the acts, deeds of them including consequences of their acts, deeds and misdeeds who have secured these certificates. Be as it may, we are not dealing with the merits or otherwise of the certificates produced. Having regard to the fact that under the Act an in-house mechanism is provided how the grievances espoused of the students through the guardian / parent have to be dealt with is provided under Section 31 of the Act. First if there is any complaint to be made against a particular educational institution complaining that there is violation of provisions of the said Act and therefore in terms of the Act, the authority concerned must take action, one has to approach the local authority and definition of local authority is clearly defined under Section 2(h) of the Act. The expression 'local authority' has already been defined under Section 2(h) of the Act, and learned counsel for the petitioners was unable to satisfy us that the authorities which the petitioners may have approached qualify to be regarded as local authorities for the purpose of Section 2(h) of the said Act. That apart, Section 31(1)(b) also confers powers upon the State Commission for protection of child's rights to enquire into complaints relating to child's right to free and compulsory education. Such

Commission is also empowered to take necessary steps as provided under Sections 15 and 24 of the said Commissions for Protection of Child Rights Act. Section 32 of the said Act also provides for yet another mode for redressal of grievances. Such grievances, in terms of Section 32(2) has to be made to the local authority and Section 32(3) provides that any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or to any other authority prescribed under Section 31(3) as the case may be.

4] Now, approaching the Court in the month of November, the petitioners grievances seems to be that closure of the academic year is fast approaching, therefore, they must be allowed to attend the classes first and then consider the complaint. If the petitioners were knocking at the doors of the wrong authorities who cannot statutorily enquire into the matter, the petitioners are to blame the guardians or parents of the students / petitioners and to blame themselves. Since alternate effective remedy is provided under the Act within the limits of local authorities, we are of the opinion unless the petitioners exhaust such remedy, it will not, in facts of this case, to invoke extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. We grant liberty to the petitioners to exhaust such alternate remedies available under the statute.

5] With these observations, the petition is disposed of.

CHIEF JUSTICE

(M. S. SONAK, J.)