

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18496 of 2016

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Babita Kumari wife of Sashi Bhushan Kumar resident of Mohalla Kalambagh Chowk in front of resident of Zila Parishad, Police Station- Kazimohammadpur, district- Muzaffarpur.

.... Petitioner

Versus

1. The Union of India through the Secretary, Human Resources Development Department of School and Literacy, Government of India, New Delhi.
2. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Secretary Central Board of Secondary Education-2, Community Centre, Preet Vihar, Delhi.
4. The Controller of Education, Central Board of Secondary Education-2, Community Centre, Preet Vihar, Delhi.
5. The District Magistrate-cum- Chairman, V.M.C. Central School, Muzaffarpur.
6. The Dy. Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, Patna
7. The Principal, Central School, Muzaffarpur, Gannipur Aghoriya Bazar Chowk, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : M/s Rajesh Kumar Singh and Anil Kumar
For the Union of India : Mr. S.D.Sanjay, ASG
For the State : Mr. Narendra Kumar, AC to GP 20
For Kendriya Vidyalaya : Mr. G.K.Agrawal
Sangathan
For Respondent nos.6 & 7: Mr. Kumar Ravish, Advocates

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 10-03-2017

Heard parties.

Through this writ petition the petitioner seeks following reliefs:

- “ i. For issuance of a writ in the nature of certiorari to quash transfer certificates issued under signature of Principal, Central School, Muzaffarpur against sons of petitioner



namely Vishal Kumar and Bicky Kumar dated 16.10.2016 and allow the both sons of the petitioner to appear in Examination (Pre-Test, Test and Final Examination).

- ii. For issuance of a writ in the nature of mandamus directing and commanding the respondents to allow the son of the petitioner namely Bicky Kumar to continue study in Central School, Muzaffarpur while Vishal Kumar has already fill-up examination form on-line for XII Examination.
- iii. For any other relief/reliefs to which the petitioner is entitled to. "

It is submitted on behalf of the petitioner that though there was scuffle between the students involving the two sons of the petitioner but there was rapprochement in the matter. Parents of the students were called and they were cautioned. Students were put on personal observation. Aforesaid facts would be apparent from the letter written to the District Magistrate – cum – Chairman VMC, Kendriya Vidyalaya Muzaffarpur by the Principal, Kendriya Vidyalaya, Muzaffarpur dated 11.10.2016 as contained in Annexure 1 series.

However, subsequently the video of the scuffle was put on public domain by somebody and the matter started being discussed widely in the media of the country. Thereafter, actions



have been taken and though the Principal had written to the District Magistrate vide letter dated 11.10.2016 that complete normalcy is prevailing in the campus but unfortunately the video has been made viral by some unknown person, two first information reports were lodged, one on the basis of the report of the Principal of the school concerned and one by the maternal grandfather of the victim student.

It is contended that the sons of the petitioner have already faced much atonement as they were sent to remand home also but their studies would be jeopardized if the transfer certificates were allowed to stand as it is. It is contended that if they are not allowed to appear in the examination going to commence today which will ruin their career.

A counter affidavit has been filed on behalf of the Kendriya Vidyalaya Sangathan, respondent no. 6, stating therein that serious misconduct has been committed by the sons of the petitioner as they brutally assaulted his classmate and the video clip went viral on various social sites including news channel all over the country leading to shock and surprises demanding action against the culprits. The higher authorities also took decisions to inquire into the matter and after inquiry it appeared that the local Vidyalaya administration hushed up the matter and came very lightly against the sons of the petitioner by suspending the wards of the petitioner only for ten



days despite the evidence of brutal assault upon a classmate. On this, a three – member inquiry team was constituted. The inquiry committee based on the inquiry held on 14.10.2016 found the matter true and also that incidence was not accidental rather it was planned well in advance with ulterior motive to display the same elsewhere and to create fear psychosis. The inquiry team also found that, despite the above, the disciplinary committee of the Kendriya Vidyalaya concerned prepared a report suggesting to take undertaking only from the students and parents in such a serious matter. The inquiry committee found that the Vidyalaya Committee had overlooked the severity of the incidence and tried to hush up the matter. It also found that students are freely roaming using mobile phones during school hours in the campus and there is no supervision and monitoring which indicates towards serious administrative lapse.

After the report submitted by the inquiry committee which has been brought on record as Annexure A, a resolution was passed by the disciplinary committee for issuance of transfer certificates to the sons of the petitioner and warning other students. It is further contended that administrative action has been taken against the Principal. He was instantly removed from the school concerned and a show cause notice was also issued against him to explain his conduct. The Headquarters has asked the Regional Office



and the Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office to take action against erring staff also. After such direction, a proper chargesheet has already been prepared against them and the Principal has already been sent to the Headquarter upon whom a show cause has already been served. Action has been taken against teaching and non teaching staffs also whose names have been detailed in paragraph no. 21 of the counter affidavit. Two first information reports have also been lodged as has been stated above.

Learned counsel for the Kendriya Vidyalaya Sangathan had also produced video clip which is in public domain for perusal of this Court as well as learned counsel for the petitioner who has also confirmed that this is the video which is available in the public domain. The video itself suggests the brutal force with which the sons of the petitioner had assaulted a class fellow.

In above view of the matter, in my considered opinion, it would not be proper to this Court to intervene into the disciplinary actions taken by the competent authority one of which is issuance of transfer certificate to the sons of the petitioner on disciplinary ground.

In my view, that order cannot be faulted with in the facts and circumstances of the case rather interference in the said order would encourage indiscipline amongst the students which is not



at all required in the present scenario.

Accordingly, this writ petition, being devoid of any merit, is dismissed.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2017
Transmission Date	NA

