

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1578 of 2015

1. Ku. Koushiki Khakhariya D/o Dr. Anil Khakhariya, Aged About 14 Years Minor Through Mother Smt. Nanda Khakhariya, Aged About 44 Years, W/o Dr. Anil Khakhariya, R/o C-80/2, Devendra Nagar, Tahsil And Distt. Raipur, (Chhattisgarh)
2. Vatsal Khakhariya, S/o Dr. Anil Khakhariya, Aged About 11 Years Minor Through Mother Smt. Nanda Khakhariya, Aged About 44 Years, W/o Dr. Anil Khakhariya, R/o C-80/2, Devendra Nagar, Tahsil And Distt. Raipur, (Chhattisgarh)

---- Petitioners

Versus

1. The State Of Chhattisgarh Through Its Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, (Chhattisgarh)
2. District Education Officer, Raipur, (Chhattisgarh)
3. Chhattisgarh State Commission For Protection Of Children Right, Through Its Secretary, Raipur, (Chhattisgarh)
4. Raj Kumar College, Through Its Management Committee And Chairman Raj Kumar College, G. E. Road, Raipur, (Chhattisgarh)
5. Principal, Raj Kumar College, G. E. Road, Raipur, (Chhattisgarh)
6. Indian Council Of Secondary Education, Through Its Chairman, C I S C E, Pragati House, 3rd Floor, 47, 48 Nehru Nagar, New Delhi

---- Respondents

For Petitioners	:	Shri Varun Sharma, Advocate
For Respondents No. 1 & 2	:	Shri D.R. Minj, Dy. Govt. Advocate
For Respondents No. 4 & 5	:	Shri Abhishek Sinha, Advocate
For Respondent No.6.	:	Shri R.S. Marhas, Advocate

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava

CAV Order

17/01/2017

1. This petition under Article 226 of the Constitution of India has been filed by the two petitioners-students Ku. Koushiki Khakhariya and Vatsal Khakhariya through their mother praying for direction to respondents No. 4 & 5 to permit and allow the petitioners to prosecute their studies in Class IX and VI respectively. The petitioners have also prayed for direction to respondent No.6 to provide due and proper registration to petitioner No.1 with respondent No.6 which is the affiliating society, under whose affiliation respondent No.4-educational institution is being run and imparting school education. The petitioners have also prayed for appropriate order to take punitive action against respondents No. 1 to 5 on the ground that despite order of the Court and provision contained in Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as "*RTE Act*") and the Rules made thereunder, they are not permitting the petitioners to attend the classes.
2. This case has a checkered history and outcome of serious dispute between the parents of the petitioners-students on one side and the educational institution on the other side, on series of disputes going on simultaneously with the education of unfortunate petitioners-students and at the same time at the cost of their educational career.

While the petitioners were pursuing their studies in Class-VII and Class-IV respectively in the educational institution of respondent No.4, a dispute arose leading to expulsion of the two students from the school. The order of expulsion was challenged by the two petitioners by filing writ petition WPC No.1659 of 2013. The writ petition was allowed vide order dated 27th January, 2014. The action of the respondents-management in issuing transfer certificate was declared illegal and the educational institution was directed to ensure that two petitioners pursue their studies in their respective Class-VII and Class-IV and also allowed to prepare and write their examinations. Before parting with the matter, this Court expressed hope and trust that the petitioners and management will act at the best interest of the students and educational institution and bring all dispute to an end with amicable settlement. Unfortunately, this did not happen. While the case of

the petitioners was that even after the order passed by this Court earlier, the order of the Court was not being respected and for one reason or the other, the petitioners were being harassed, not allowed to sit in classes, write annual examinations, taking their grievances to various fora of District Education Officer and Commission for Protection of Rights to Children, the management's case was that parents of the partitioners are not cooperating properly and making false complaints on fabricated allegations against Management and teachers, violating school's regulation and discipline. In this background, the present writ petition was filed by the petitioners on 1st September, 2015, praying for relief stated hereinabove on the pleadings inter-alia that two petitioners are not being permitted by respondent No. 4 & 5 to prosecute their studies in the next higher classes in the educational session 2015-16 in Class-IX and Class-VI. The pleadings of the petition are that the petitioners are not being allowed to enter the educational institution and attend their respective classes. Complaints were continuously made before various authorities, some of which have also been filed by the petitioners along with the petition i.e. letters dated 10.2.2014 (Annexure P-2), dated 17th October, 2014 (Annexure P-3), dated 10.3.2015 (Annexure P-4), dated 13.3.2015 (Annexure P-5) and so on. In response to petitioners' complaint which were being made to the District Education Officer, the District Education Officer vide his memo dated 4.8.2015, sent communication to the Principal of the Institution that complaints are being made that the two petitioners have not been allowed to appear in the examination. Communications were also made by the Protection of Children Rights Commission on 4.8.2015 to the educational institution. Vide communication dated 24.8.2015 (Annexure P-10), the District Education Officer required information with regard to second petitioner- Vatsal Khakhariya who is stated to be student of Class-IV. The petitioners, at this stage, finding that the months had elapsed and petitioners were not being allowed to attend the classes, filed this writ petition, particularly in view of the fact that the petitioner No.1 who was promoted to IX standard and she was required to be registered with respondent No.6 without which she may not be permitted to appear in the Class-X Board Examination in the next session and that the last date for getting registration was 31st August, 2015. According to the petitioners, the petitioners are entitled to protection of RTE

Act and further that the fee has also been paid.

3. In support of his submissions, learned counsel for the petitioners relied upon the order dated 21.7.2015 passed by the Division Bench of Bombay High Court in the case of **Jayshree Vijay Mundaware Vs. The Principal/Head Mistress of Ashoka Universal School Chandsi/Wadala and Ors** in Writ Petition No.5378 of 2013 reported in (2015) 6 MhLj 792, judgment of the Supreme Court in the case of **Deepa Thomas and Ors. Vs. Medical Council of India and Ors.** (2012) 3 SCC 430 and order passed in the case of **Narasimha Murthy D.R. & Ors. Vs. Under Secretary, Department of Health and Family Welfare & Ors.** [Civil Appeal No(s) 8152-8155 of 2012].
4. As the petitioners prayed for interim protection to prosecute their studies, after affording an opportunity of hearing and filing reply to interim application, an order was passed by this Court on 29.9.2015 that the petitioners be allowed to prosecute their studies in Class-IX and VII respectively in the respondent-educational institution as an interim and provisional affair subject to depositing annual fee within 10 days. On that day, the petitioners' apprehension on account of non-registration was also noticed and this Court observed that if the petitioners are held to be entitled to relief sought in the petition, the Court has enough power to direct respondent No.6, the affiliating society, to provide registration to the petitioners. Pursuant to the order passed by this Court, the petitioners, as demanded by the educational institution, deposited Rs.3,64,555/- towards fees of both the petitioners -students on 6.10.2015.
5. The respondents No. 4 & 5/educational institution and its authorities filed their preliminary objection as well as detailed return on the pleadings that though the management did not expel the petitioners from the educational institution nor denied petitioners to attend their respective classes, the petitioners voluntarily left the institution and obtained admission in another educational institution namely Gyan Ganga Educational Academy Residential and Day-Boarding Senior Secondary School in Class IX and VI respectively in the academic year 2015-16 and fee has also been paid. According to these respondents, the petitioners obtained admission in that school, pursued their study and, thereafter, they withdrew their admission in

that school in the month of July and thereafter filed this petition seeking direction to allow them to attend classes. According to respondent-educational institution, the petitioner suppressed this fact in their writ petition that they had obtained and withdrew their admission from another educational institution. The respondents have further opposed the relief sought for by the petitioners on the ground that the petitioners did not pay the tuition fee and other fee to the educational institution for academic session 2013-14, 2014-15 or 2015-16 and the names of the petitioners were struck off from the rolls of students as they had voluntarily left the school to join in another school without even informing the respondents- institution and without even obtaining mark sheet/results and the transfer certificates. It is further submitted that after the order was passed by this Court in earlier round of litigation, though the petitioners were promoted to the next class of IX and VI, as the petitioners did not deposit fee and voluntarily left the school to join another school, the allegation that the petitioners are not being allowed to join classes in school of the respondent-educational institution is false and afterthought. It has also been stated in the pleadings of the respondents that the academic session 2015-16 started on 30th March, 2015 but the petitioners were not regularly attending the classes nor their guardians paid any fees to the institution. As far as petitioner No.1 is concerned, according to regulations of the affiliating society/respondent No.6, she has to secure minimum 75% of the attendance to appear in the X examination in the next session i.e. 2016-17. Moreover, the affiliating body has not granted any registration to petitioner No.1, though after the interim order passed by this Court, the college has forwarded their registration application to respondent No.6. In view of the fact that dispute was pending between the parties in the matter was subjudice in the Court, respondent No.6 has not granted any registration. Apart from taking an objection with regard to maintainability of the petition on the ground of suppression of material fact, respondents No. 4 & 5 have also objected to maintainability of joint petition for both the petitioners.

6. Respondent No.6, the affiliating body in the return has stated that as informed to them by the academic institution, the petitioners have not deposited fee voluntarily and left the school and petitioner No.1 having not

secured 75% of the minimum attendance as per the requirement of applicable Regulations and there being no registration granted to them till now, therefore, they are not entitled to any relief against respondent No.6. Respondent No.6 has also raised an issue that respondent No.6 is not amenable to writ jurisdiction of this Court because it is not the State under Article 12 of the Constitution of India.

7. The petitioners as well as respondents have filed rejoinder, additional return and have placed on record large number of documents, reflecting disputes pending between parties, various correspondences, complaints reports, allegations, counter allegations etc. However, the substance of the case of the petitioners has been that they were not being allowed to attend classes in Session 2015-16 and opposed by the respondent-Institution on the ground that the petitioners have left the Institution of their own though they were never expelled nor any transfer certificate was issued to them and they had taken admission in another educational institution from where they withdrew their admission, therefore, they are not entitled to any relief.
8. In support of their submissions, learned counsel for the respondents relied upon judgments of the Supreme Court in the cases of **C.B.S.E. and Anr. Vs. P. Sunil Kumar and Ors.** (1998) 5 SCC 377, **Regional Officer, CBSE Vs. Ku. Sheena Peethambaran and Ors.** (2003) 7 SCC 719, **Deepa Thomas (supra), Council For Indian School Certificate Examination Vs. Isha Mittal and Anr.** (2000) 7 SCC 521, **Prestige Lights Ltd. Vs. State Bank of India** (2007) 8 SCC 449 and **Abhyudya Sanstha Vs. Union of India & Ors.** (2011) 6 SCC 145.
9. As far as the objection of respondent No.6 that it is not amenable to writ jurisdiction is concerned, the same is liable to be rejected. Respondent No.6, as pleaded, is a registered society under Society Registration Act and recognized under Delhi Administration Act 1973 for holding public examination for class-X and XII. The memorandum of academic rules and regulations which have been filed collectively as Annexure -A along with their return shows that respondent No.6 is a registered society and recognized for purposes of holding public examination for class X & XII under the Delhi Administration Act, 1973. It is the affiliating body with whom the respondent

No.4 educational institution and large number of educational institution imparting education in the country are affiliated. Respondent No.6 is recognized under the Law to hold public examinations. Respondent No.6, therefore, engaged in public functions having been engaged in imparting education. Therefore, even if it is not receiving any grant in aid from the Government, it would be amenable to writ jurisdiction.

10. In the case of **Ramesh Ahluwalia Vs. State of Punjab & Ors.** (2012) 12 SCC 331, the Supreme Court, relying upon its earlier decision in the case of *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust Vs. V.R. Rudani* (1989) 2 SCC 691, observed as under :-

“12. We have considered the submissions made by the learned counsel for the parties. In our opinion, in view of the judgment rendered by this Court in the case of *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust* (supra), there can be no doubt that even a purely private body, where the State has no control over its internal affairs, would be amenable to the jurisdiction of the High Court under Article 226 of the Constitution, for issuance of a writ of mandamus. Provided, of course, the private body is performing public functions which are normally expected to be performed by the State Authorities.”

11. Therefore, in view of the above settled legal position, the objection that respondent No.6 is not amenable to writ jurisdiction is not sustainable in Law and, therefore, rejected.

12. Learned counsel for respondent No.4 has taken objection with regard to maintainability of the petition and has prayed for outright dismissal of the petition on the ground that the petitioners have suppressed a material fact that the petitioners had taken admission in another school which means that

the petitioners themselves had voluntarily left the present school of respondent No.5.

13. There had been a longstanding dispute between the petitioners and respondent-educational institution. The petitioners were expelled from the institution and there had been allegation that even though their petition was allowed by this Court in earlier round of litigation, the order of the Court was not being respected and various hindrance was being created and even in the previous session, there was a dispute that they were not being allowed to attend the classes and to take up examination which is continued despite the end of earlier educational session and continued to exist at the start of the new educational session w.e.f. 30.3.2015. The petitioners have placed on record number of letters sent by it to various authorities making complaint against respondents educational institution that they are not being allowed even to enter the premises and to attend classes. In these situations, may be to secure future of the students and prevent loss of year, provisional admission was taken on 6.4.2015 in another school namely Gyanganga Educational Academy. However, the petitioners through their parents had been continuously raising grievances before various fora. The provisional admission was however withdrawn also on 22.7.2015 because the respondent No.4-institution had not issued any transfer certificate or provided any result to the petitioner. It is not a case where during continuance of their admission in the other institution, the petitioners filed present petition. The background as obtaining on record of the case that there was a dispute going on between parents of the petitioners on one hand and the Institution on the other, complaints being made that the petitioners are not being allowed to attend the classes, during this period, a provisional admission was taken and withdrawn and then only present petition was filed. It is not a case that the petitioners had applied for issuance of transfer certificate, issuance of mark sheet which was granted to them and thereafter they had obtained admission in another institution and during continuance of that admission, the petitioners filed this petition before this Court. Though respondents have stated that petitioners also attended the class in the other Institution, there is no material placed before this Court on record to substantiate such submission. The petitioners have stated in their pleadings

that it was a mere provisional admission to secure their future in the circumstances that they were never being allowed to attend classes in the Session 2015-16, which was ultimately withdrawn without attending any classes and even without the petitioners being registered with affiliating body i.e. Central Board of Secondary Education with whom the other school i.e. Gyan Ganga Educational Academy was affiliated. Considering the aforesaid factual scenario, I am not inclined to dismiss the petition on such objection particularly because the petition itself was filed after withdrawing the provisional admission.

14. The order passed in earlier writ petition on 27.1.2014 by which expulsion of the petitioners was held illegal, was assailed by the respondents educational institution by filing Writ Appeal No.494/2014, which was disposed off vide order dated 22.12.2015, in following terms:

“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.”

15.The interim order passed by this Court on 29.9.2015 in the present writ petition was also assailed by filing writ appeal which was also disposed off.

16.From the pleadings and the documents on record what is reflected is that though the expulsion of the petitioners from educational institution was held illegal, there existed a dispute between the parties in which allegations and counter allegations were levelled by the Institution against the parents of the petitioners' students, alleging that the fee for earlier period since 2013 was not fully paid and that the discipline of the school was being disturbed by the parents by indulging into unnecessary quarrel with the academic institution without paying fee. The allegation of the parents was that the petitioners students are not being given proper treatment in the school and they are

being harassed. This situation continued even at the time of beginning of the new educational session of 2015-16. According to respondent, their new session started from 30th March, 2015 which is not in dispute. Even according to respondents, petitioner -Koushiki was promoted to the next higher class of IX and petitioner-Vatsal was promoted to the next higher class of VI. But because of the longstanding dispute, while, the Institution was insisting the parents for clearance of fee and other dues of the past year, the parents of the students were insisting that the result should be declared and mark sheet should be given to the students. The complaints made by the parents were pending before the Child Rights Commission as also before the District Education Officer. It is also revealed that the District Education Officer had instituted an inquiry on the allegation of parents and the Principal of Mayaram Surman Govt. High Secondary School, Raipur, was appointed as Enquiry Officer, who issued a letter to the College on 8.5.2015, to which response was given by the College vide its letter dated 8.5.2015. The parties have placed on record number of communications made between them and also communications with District Education Officer, Child Rights Commission, Police Authorities etc. which only reflected that there were serious disputes. The District Education Officer as well as Commission sent letter to the College on 4.8.2015. The College in its letter dated 14.8.2015 stated that if due fee is cleared by the parents, transfer certificate and mark sheet would be issued.

17. It is also reflected that during this period of dispute between parents on one hand and educational institution on the other, when the allegation was that the petitioners were not being allowed to enter the classes and take up studies, in the desperate move, the parents of the petitioners got them provisionally admitted in Gyan Ganga Educational Academy in the month of April, 2015. On 3.7.2015 hearing was fixed before the Child Rights Commission. Thereafter, the Commission issued a letter to the Institution on 27.7.2015 followed by letter dated 4.8.2015 and at this stage, the provisional admission of the petitioners students in Gyan Ganga was also withdrawn on 22.7.2015. Finally, the petitioners approached this Court when the new educational session already started in the month of July and the disputes between the parents and the educational institution could not be resolved. In

the rejoinder, while the petitioners have stated that though they did not receive any letter of the Institution regarding deposit of fee, on the other hand, the Institution has come out with the case that letters were issued but when fee was not deposited, the names of the students were struck off from the roll of the students. However, there is no material on record to show that such letters for deposit of any particular amount of fee were received by the petitioners.

18. This Court having formed a prima facie opinion that the dispute is mainly with regard to fee of the past as well as session 2015-16, the dispute has remained pending between the parties which may adversely affect the studies of the student, interim order was passed on 29.9.2015. It is not in dispute that after the interim order was passed on 29.9.2015, huge amount of fee of Rs.3,64,555/- which not only included the earlier arrears of fee which were being demanded by the College in respect of earlier sessions of 2013-14, 2014-15 but also the fee of the first term of educational session 2015-16 were paid by the petitioners on 6.10.2015. Later on, in the month of January, 2016, as disclosed in the additional rejoinder, Rs.1,30,000/- has also been paid which has been adjusted by the Institution as fee of the second term of Session 2015-16 as against the claim of the petitioners that it is towards fee for the session 2016-17. The petitioners were allowed to pursue their studies in the session 2015-16 by paying aforesaid fee and the petitioner No.1 has also appeared in the Class IX examination though her result has not been declared, obviously, because of the pendency of the writ petition. As far as respondent No.2 is concerned, he having pursued studies in Class-VI, has been stated to be automatically promoted to the next class of VII.

19. The petitioner No.1 had also applied for registration with the affiliating institution/respondent No.6 and the application for registration along with the fee was forwarded by the College to respondent No.6 for registration, but the affiliating body has returned the same without providing any registration in view of the fact that matter is subjudice and that while passing the interim order dated 29.9.2015, this Court has observed that in case the petition is allowed, appropriate order could be passed by this Court regarding their

registration. In view of the aforesaid background of dispute between the parties and that later on though with the intervention of the Court, the fee was deposited by the petitioners on 6.10.2015 and the petitioners were allowed to pursue study in the educational institution and they have also appeared in the examination in the session 2015-16, it would be appropriate to direct respondent No.6 to provide registration to the petitioners on the basis of the application which was earlier forwarded on 30th September, 2015 by the College to respondent No.6.

20. Learned counsel for the respondent educational institution also submitted that in the scheme of examination of Class IX and X, under the affiliation rules and regulations of respondent No.6, there is a minimum requirement of attendance of 75% in each educational session. He submits that in the educational session 2015-16, the attendance of the petitioner No.1 Koushiki is about 42% which is even less than 60%. Therefore, unless that is condoned by the respondent No.6 in accordance with its regulations, petitioner No.1 could not be entitled to any relief.

The regulations framed by the respondent No.6 have been placed on record as Annexure R-4/B. Clause D thereof makes provision with regard to minimum attendance requirement for Class- IX and X. It provides that a candidate whose attendance is below 75% of the working days are ordinarily not eligible to sit for the examination. However, the Chief Executive and the Secretary has the authority to condone the shortage of attendance in the case of candidates whose minimum attendance is not less than 60% of the working days in each year of the two year course. This is exclusive of absence due to illness and other special circumstances. Heads of the Schools may represent, to the Chief Executive and Secretary, cases of candidates who deserve special consideration for condoning shortage of attendance in Class IX and/or X, provided that the attendance of such candidates is not less than 60% of the working days, during each year of the two years course.

It further provides that Chief Executive and Secretary may condone the shortage of attendance in the case of candidates whose minimum attendance is below 60% in exceptional cases i.e.:

- (i) On Psychological/Medical Grounds such as serious illness requiring long period of treatment/hospitalization
- (ii) authorized participation in sports at State and National Level organized by recognized Sport Authorities
- (iii) Other unforeseen and special circumstances

It also provides that last date for computing attendance at school is February 2015 of each of the two years.

21. The aforesaid provision contained in Regulations itself provide that ordinarily minimum attendance requirement is 75% and it could be condoned if it is not below 60%. However, in cases where the attendance is less than 60%, under exceptional circumstances, that could be condoned. Present is a case which poses an exceptional circumstance because of all kinds of dispute between the parents and the educational Institution. The petitioner could be allowed to pursue their study only under the interim order passed by this Court and huge amount of fee has been paid for petitioner No.1 after the order was passed by this Court on 29.9.2015. It is stated that attendance of petitioner No.1 is less than 60 percent in the educational session 2015-16 while she was allowed to study in Class-IX and appear in the examination. In these circumstances and in order to save an educational year of petitioner -student Koushiki, it would only be proper for respondent No.6 to treat the case of the petitioner No.1 as a case of special circumstance and pass necessary orders in exercise of powers under Clause D of its Regulations. for condoning shortage of attendance of petitioner No.1 in the session 2015-16.

22. It has also been brought to the notice of this Court that though in the present case, the interim order was passed only in relation to session 2015-16, as the matter had remained pending and the two petitioners were allowed to pursue their studies in Class-IX and VI respectively and also appear in the examination, the respondent College has allowed the two petitioners to continue their study in the next higher classes of X & VII respectively, even though the result of petitioner No.1 has not been declared so far. But then,

the educational institution has stated that except Rs.49,000/- paid in the month of July, 2016, no other amount has been paid towards fee.

23.It needs to be clarified that petitioners do not belong to category of Below Poverty Line (BPL) family, therefore, they are not entitled to any kind of relaxation from fee and the entire amount of fee as per the Regulations and Rules of the School, is liable to be paid by them. As the provision of RTE Act and the Rules made thereunder is applicable only to BPL category students. It is not the case of the petitioners that they belong to BPL category.

24.Present petition confines only to the dispute with regard to educational session 2015-16 and as the petitioners have deposited fee and pursued their studies in Class IX and VI in the year 2015-16, but the educational institution, on its own, allowed the petitioners to continue in the educational institution and in higher classes i.e. in Class X and VII respectively, which needs to be appreciated by the Court, this petition is disposed off with following terms:-

A. On petitioners depositing registration fee within a period of 10 days from today with the respondents No. 4 & 5/educational institution, respondent No.6 shall necessarily provide registration to petitioner No. 1 Koushiki.

B. The background in which there was shortage of attendance of Ku. Koushiki in the Class IX, respondent No.6 shall pass necessary orders condoning short attendance of the session 2015-16 on or before 10th February, 2017.

C. Immediately after such order of condonation of short attendance of Ku. Koushiki, her results of Class-IX shall be declared by the College.

D. If Ku. Koushiki is declared pass in Class-IX, the educational institution of respondents No.4, 5 shall deal with the case of petitioner No.1 for the session 2016-17 in accordance with their Rules and Regulations subject to the condition that fee for educational session 2016-17, found due and payable by petitioner

No.1, is paid before 15th February, 2017.

E. As petitioner No.2 is automatically promoted to Class-VII and has been allowed to pursue studies in the educational session 2016-17, no further orders are required to be passed in his case.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen