

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20619 OF 2018

ORDER :

This Writ Petition is filed seeking writ of mandamus declaring the action of the 5th respondent in detaining the wards of petitioners basing on the circular No.F.No.190350/2017/KVS/DR/Exam/SBS, dated 23.02.2018 issued to the effect of Delhi Region is arbitrary and illegal and consequently to declare the same as illegal and void.

Heard Sri V.Venkateswarlu, learned counsel for the petitioners and Sri B.Narasimha Sharma, learned Standing Counsel for respondents 3 to 5.

It is the case of the petitioners that the Government of India as a policy matter has established the Kendriya Vidyalaya Schools from I Class to XII Class in the District Head Quarters and that one of such school established in Kadapa under the name and style of Kendriya Vidyalaya Sangathan. The said schools are affiliated to Central Board of Secondary Education for conducting the exams as well as the preparation of syllabus under the control of the board. The appointment of temporary teaching staff shall be under the control of the District Committee under the Chairmanship of the District Collector, who is a Ex-officio Chairman of the Committee. The 5th respondent, without adopting the guidelines and circulars issued by the CBSE, mechanically detained the wards of the petitioners in Class IX and XI.

Counter affidavit is filed by the respondents 3 to 5 denying the averments in the affidavit filed in support of the Writ Petition

stating that Kendriya Vidyalaya Sangathan (KVS) is an autonomous organization, registered under the societies Registration Act XXI of 1860 and fully financed by the Government of India with objective i) to cater to the educational needs of children of transferable Central Government employees including Defence personnel by providing a common programme of education ii) to develop Vidyalaya as a model school in the context of national goal of Indian Education (iii) to initiate/promote experimentation in the field of education in collaboration with other bodies like CBSE, NCERT, etc. and iv) to promote national integration; that the petitioners did not mention the particulars/details of their respective wards, class in which they are studying and suppressed the failure performance of the said students either in IX or XI class in Kendriya Vidyalaya, Kadapa and they did not even enclose the names of such students with related particulars.

Learned counsel for the petitioners submits that as per Article 106 (C) of Education Code of Kendriya Vidyalayas, a student must obtain not less than 33% marks in each of the academic subjects viz., languages, Mathematics, Science and Social Studies and at least in the aggregate, but the respondent authorities have not promoted the children of the petitioners, though they secured 33% of marks in the aggregate. He also submits that the impugned circular dated 23.02.2018 is not applicable to the 5th respondent school, since it is issued by the Delhi Region.

On the other hand, Sri B.Narasimha Sharma, learned Standing Counsel for respondents 3 to 5 submits that the wards

of the petitioners have secured less than 33% in more than one subject in the examinations, as such, they were not promoted to the next classes. He submits that the KVS is giving hand book and calendar to each of the parents of the students and same provides guidelines.

In this case, before considering the rival contentions of both sides, it is necessary to extract relevant provisions of the Education Code of Kendriya Vidyalayas (for short 'Code'). Articles, 106 (C) and 98 of the Code reads as follows:

“C) For Classes VI to IX and XI

Each student would need to pass the continuous and comprehensive evaluation as well as the annual examination separately with at least 33% marks. Thus, each child shall need to obtain not less than 20 marks out of 60 in each subject in the continuous and comprehensive assessment for class VI onwards and 13 marks out of 40 in annual examinations, for being promoted to the next class. To pass the examination, a student must obtain not less than 33% marks in each of the academic subjects viz Languages, Mathematics, Science and Social Studies and at least 33% in the aggregate.”

“98. A pupil who fails once at the annual examination (class I to IX and XI) may be admitted to the same class in the next session of the same or any other Kendriya Vidyalaya. A pupil who fails twice at the annual examination shall not be admitted even in special cases.”

Paragraph 12 of the Circular F.No.110331-01/2017-KVS (Acad)/CBSE, dated 24.03.2017 reads as follows:

“12 For class XI, a new pattern of assessment will follow having two components: Overall assessment and Session Ending Assessment of 50% weightage each. Overall assessment includes Periodic Tests and Half Yearly examination. Year ending examination includes complete syllabus in theory and practical/project. The qualifying marks in each subject will be 33%. In a subject involving practical work a student must obtain 33% marks in theory and 33% marks in practicals separately in addition to 33% marks in aggregate, in order to qualify in that subject. Existing provisions of compartmental examination will remain the same.”

A perusal of circular dated 24.03.2017 coupled with Article 106 (C) of the Code goes to show that a subject involving practical work a student must obtain 33% marks in theory and 33% marks in practicals separately in addition to 33% marks in aggregate, in order to qualify in that subject. The word 'and' is used but not 'or'. Learned Standing Counsel for the respondents submits that the wards of the petitioners have not fulfilled the requisite conditions for promoting them to the next classes. As per the letter dated 30/31-05-2017 of the Kendriya Vidyalaya Headquarters, New Delhi, uniform system of assessment, examination and report card for classes XI from academic year 2017-18 onwards was introduced clearly specifying that the student shall obtain 33% of marks in all subjects to be declared as having passed the said examination. A candidate failing in one of the 5 subjects in class XI shall be placed in the compartment and it also provides the said minimum qualifying marks of 33% separately in theory and practicals, wherever is applicable. It is pertinent to note that the writ petitioners failed to mention the details of their respective wards, class in which they are studying and also suppressed the failure performance of the said students either in IX or XI class in Kendriya Vidyalaya, Kadapa and that they not even mentioned the names of such students, for considering their case against the impugned circular dated 23.02.2018 for promoting their wards to the class X or Class XII. That apart, when the petitioners approached the Permanent Lok Adalat for Public Utility Services, Kadapa in PLAC No.194/2018, the claim of the petitioners also negated by the said authority.

In view of the same, I do not see any reason to entertain the Writ Petition and accordingly, the same is dismissed. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY, J

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