

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-23077-2018 (O&M)
Date of Decision: 21.01.2019

Cadet Virat

--Petitioner

Versus

Union of India & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sandeep Lather, Advocate for the petitioner.

Mr. Vipul Aggarwal, Advocate for respondents no.1 to 3.

TEJINDER SINGH DHINDSA.J (Oral)

Instant petition has been filed by Virat (minor) through his natural guardian and father assailing the decision contained in letter dated 8.8.2018 (Annexure P-2), whereby he has been directed to be withdrawn from Sainik School, Kunjpura (Karnal).

It has been averred that petitioner got admission in the school under the general category in 6th class, Session 2018-2019 on the basis of an All India Sainik School Entrance Examination. Petitioner had been medically examined and was called for submission of documents on 6.4.2018. In the month of April, 2018 itself classes commenced and the petitioner was staying in the school hostel. It is submitted that the petitioner was suspended by the school from 20.7.2018 to 26.7.2018 on the basis of certain allegations which were baseless. At that stage petitioner remained silent and did not agitate the issue looking towards his future. On 7.8.2018 the House Master of the school is stated to have informed father of the petitioner to take his child back from the school. It is contended that it was at such point of time that the father of the petitioner became aware of the decision of the school authorities in withdrawing his ward from the school

vide impugned letter dated 8.8.2018 (Annexure P-2).

Counsel appearing for the petitioner has argued that a young student has been made a victim of false allegations and the school has treated him as an offender. Further argued that the parents were never associated with any kind of inquiry that may have been conducted and as such, the action of the school authorities in directing withdrawal of the petitioner is arbitrary. Counsel also adverts to a Transfer Certificate dated 4.9.2018 (Annexure P-5) that has been issued by the school and in which against column no.19 the general conduct of the ward has been shown to be satisfactory. Counsel contends that if the general conduct of Virat was satisfactory, then, there would be no basis to take a decision directing withdrawal of such student. It has also been urged that on 11.8.2018 a meeting of the parents of the students studying in the school had taken place and wherein the parents of Virat had also interacted with other students and such interaction brought forth that Virat had never misbehaved with the fellow students.

Upon notice of motion having been issued, a joint written statement on behalf of respondents no.1 to 3 has been filed and placed on record. The action of directing the withdrawal of petitioner from the school is sought to be justified on the basis that he was found involved in various activities detrimental to the interests of the fellow students as also of the school. Petitioner had been found involved in sexual harassment activities with other children/students. The decision of withdrawal of the petitioner has been taken as per recommendations of the Discipline Committee of the school and after getting approval of the higher authorities. Counsel for the respondent school apprises the Court that father of the petitioner was

informed in person about the activities/misconduct of his child and was even shown the statements of the students to such effect. Further submitted that father had been duly informed as regards the impugned decision but he did not turn up to take the child from the school and under such circumstances, considering safety of the child, he was sent home along with the escort on 4.9.2018.

Counsel for the parties have been heard at length. Even the original records of the case that had been summoned, have been perused.

It is not in dispute that at the stage of granting admission to the petitioner in the school in question, an agreement (appended as Annexure R-1 along with the written statement) was entered into between the father of petitioner as also Principal of the school. Clause 9 of the agreement would be relevant and reads as under:-

“That the Principal can in the interest of the school have the student removed if, in the Principal's opinion, the student has failed to accept the discipline of the school and his continued presence is detrimental to the interest of the other students and/or the student fails to come up to the academic standard of his class and when detention in the same class would make the student overage for entry into the National Defence Academy (N.D.A).”

It is a case where allegations of sexual as also mental abuse of fellow students against the present petitioner were raised. This Court does not deem it necessary to delineate the same in this order. Such allegations have been gone into by a Discipline Committee. Statements of various students including the petitioner were recorded. The same have been perused by this Court. The initial recommendation of the Discipline Committee was to suspend the petitioner for a particular duration. The

matter, thereafter, having been put to further scrutiny, the Discipline Committee recommended withdrawal of three students including the petitioner and suspension of one student. Concededly, a course of action was adopted where parents of the petitioner were not associated with the inquiry. Be that as it may, the matter has been exhaustively dealt with by a Seven Member Discipline Committee. Recommendations made by the Committee were forwarded to the Sainik Schools' Society and the same have been approved. The course of action adopted by the respondent authorities cannot be termed as unfair, unjust and violative of the principles of natural justice.

It would also need to be noticed that the Sainik Schools come under the purview of the Sainik Schools' Society under the Ministry of Defence, Union of India. Students studying in such schools are termed as 'Cadets' and are prepared mentally, physically and in academics to ultimately join the National Defence Academy. The norms of discipline applicable and punishment for errant behaviour would be on a different footing in comparison to any other school/institution. This Court would refrain from interfering in matters of enforcing discipline in institutions being run under the aegis of defence authorities unless it is a case of blatant abuse of power or the action being vitiated by malafides. No such case has been made out.

Even otherwise, in the considered view of this Court it would neither be in the interest of the school, fellow students or the petitioner himself for the decision of the school to be reversed and directions to be issued to readmit the petitioner. Such course of action would only vitiate the atmosphere in the school.

No infirmity, as such, is found in the decision taken by the school authorities in directing withdrawal of petitioner Virat from the school in question.

There is, however, one aspect which needs to be addressed. In the Transfer Certificate dated 4.9.2018 (Annexure P-5) issued by the school to facilitate the admission of the petitioner in any other school/institution, in column no.22 (reason of leaving the school), it has been mentioned that as per S.S.S R&R (Rule 3.32). Counsel representing the respondent school concedes that Rule 3.32 of the Sainik Schools' Society (Rules and Regulations) refers to withdrawal of a student from school whose conduct, behavior or influence has been opined to be detrimental to the general discipline/interest of the school.

The same may work to the prejudice of the petitioner while seeking admission elsewhere.

At this stage, learned senior panel counsel, Union of India upon instructions from Lt. Col. Astha Kotnala, Vice Principal, Sainik School Kunjpura and who is present in Court, makes a statement that the school authorities are ready and willing to issue a fresh transfer certificate and which would not reflect adversely on the conduct of Cadet Virat. Such statement is accepted.

In view of the above and while declining to interfere and dismissing the writ petition, respondents are directed to issue to the petitioner without any further delay a fresh Transfer Certificate in terms of the statement recorded herein above.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

21.01.2019

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No