

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3185 of 2011

CHRISTIAN MINORITY EDUCATIONAL Society, a society registered under the provisions of the Societies Registration Act, 1860 having Its Registered Office At 109, Patliputra Colony, P.S. Patliputra, District Patna, Bihar through its President Mr. A.G. Derozario S/O Late J.F.Derozario

... .. Petitioner/s

Versus

1. THE UNION OF INDIA through the Secretary, Ministry of Law and Justice, Government Of India, 4th Floor , A-Wing, Shastri Bhawan, New Delhi
2. Ministry Of Human Resources Development, Government Of India, Shastri Bhawan, New Delhi through its Secretary
3. The State Of Bihar through The Principal Secretary, Human Resource Development Department, Government of Bihar, Patna
4. The Principal Secretary, Human Resource Development Department, Government Of Bihar, Patna .Respondents
5. Ajay Kumar Chourasia, S/o late vidya Bhushan, resident of Anand Bazar P.S. Danapur, Dist, Patna Intervenor / respondent

Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha
For the Respondent/s : Mr. Dr. K. N. Singh, ASG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 18-08-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

“a. For issuance of an appropriate writ, order or direction declaring Sections 3, 4, 6, 11 to 15, 17, 21, 22, 23, 24(1)(d) and 29 of the Right to Free and Compulsory Education Act, 2009 to be unconstitutional being ultra vires the provisions of



the Constitution of India.

(b) For issuance of an appropriate writ, order or direction declaring Sections 12, 21, 22, 23 and 24 to be violative of the rights of the minorities enshrined under Article 30(i) and (2) as well as Article 15(5) of the Constitution and consequently

(c) For issuance of an appropriate writ setting aside the two public notices dated 2nd January 2011 issued by the Principal Secretary, Human Resource Development, Government of Bihar, by which the private unaided schools including the minority schools are being compelled to selectively comply with the provisions of section 12 and 13 of the Right to Free and Compulsory Education Act, 2009;

(d) For issuance of an appropriate writ, order or direction restraining the Government of Bihar, till the final adjudication of the issues raised herein by this Hon'ble Court, from enforcing the compliance of the provisions of the Act without discharging any of the reciprocal duties and obligations cast upon it under the provisions of the Act;

(e) For issuance of an appropriate writ, order or direction restraining the Government of Bihar, till the final adjudication of the issues raised herein by this Hon'ble Court from enforcing the compliance of the provisions of Sections 18 and 19 of the Act without discharging any of the reciprocal duties and obligations cast upon it under the provisions of the Act;

(f) pass any other or further order as this Hon'ble Court may deem fit in the facts and circumstances of the case.”

The issue raised in this writ petition is no more res



integra as same stood decided by the Apex Court in case of Pramati Educational and Cultural Trust Vs. Union of India since reported in 2014 (8) SCC 1, the concluding paragraph of which reads as follows:-

“In the result, we hold that the Constitution (Ninety-third Amendment) Act, 2005 inserting clause (5) of Article 15 of the Constitution and the Constitution (Eighty-Sixth Amendment) Act, 2002 inserting Article 21A of the Constitution do not alter the basic structure or framework of the Constitution and are constitutionally valid. We also hold that the 2009 Act is not ultra vires Article 19(1)(g) of the Constitution. We, however, hold that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires the Constitution. Accordingly, Writ Petition (C) No.1081 of 2013 filed on behalf of Muslim Minority Schools Managers’ Association is allowed and Writ Petition (C) Nos.416 of 2012, 152 of 2013, 60 of 2014, 95 of 2014, 106 of 2014, 128 of 2014, 144 of 2014, 145 of 2014, 160 of 2014 and 136 of 2014 filed on behalf of non-minority private unaided educational institutions are dismissed. All I.As. stand disposed of. The parties, however, shall bear their own costs.”

The writ petition is accordingly disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.8.2020
Transmission Date	NA

