IN THE HIGH COURT OF MANIPUR : AT IMPHAL

W.P. (C) No. 453 of 2020

Konjengbam Niranjoy, Aged about 55 years, F/o K. Roshan of Wairi Awang Leikai, P.S. Lamlai, Imphal East District, Manipur & 7 ors.

… Petitioners

-Versus-

1. The State of Manipur, represented by the Commissioner/Secretary, Department of Education(S), Government of Manipur.
2. The Director of Education(S), Govt. of Manipur.
3. The Zonal Education Officer, Department of Education, Kangpokpi, Govt. of Manipur.
4. The Head Mistress. Shishu Milan Primary School, Purum Khullen, Kangpokpi, P.O.Pangei, now resided at Deulaland, Imphal.
5. The Union of India represented by the Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office, Shillong.
6. The Principal, Jawahar Navodaya Bidyalaya in short JNV, Kangpokpi District -795129.

… Respondents

B E F O R E

HON'BLE MR. JUSTICE KH. NOBIN SINGH

For the Petitioners	::	Shri Kh. Santa, Advocate
For the Respondents	::	Shri S. Samarjeet, CGC Shri A. Vashum, Govt. Advocate
Date of Hearing	::	**10-09-2020**
Date of Judgment & Order	::	**15-09-2020**

JUDGMENT & ORDER

[1] Heard Shri Kh. Santa, learned Advocate appearing for the petitioners while Shri A. Vashum, learned GA for the State respondents and Shri S.Samarjeet, learned CGC for the respondent Nos. 5 & 6.

[2] The validity and correctness of the letters /orders dated 16-07-2020, 18-07-2020 and 01-08-2020, issued by the Head Mistress, Shishu Milan Primary School, Purum Khullen and the Principal, Jawahar Navodaya Vidyalaya, Kangpokpi respectively, are under challenge in this writ petition.

[3.1] According to the petitioners, they are the fathers/ guardians of their minor children. After passing their Class-V examination, their children appeared for the selection test, conducted by the Central Board of Secondary Education, New Delhi, for admission to Class-VI for the academic session, 2020-2021 at Jawahar Navodaya Vidyalayas. As their children got selected in the said test, they were admitted in Class-VI at Jawahar Navodaya Vidyalaya, Kangpokpi (hereafter referred to as "**the JNV, Kangpokpi**"). The process of admission was completed on 13th and 14th July, 2020 and thereafter, text books, note books etc. were issued to the students. At the time of admission, the petitioners submitted the mark sheets and the certificates of their children for promotion to Class-VI.

[3.2] After their children having been admitted at JNV, Kangpokpi, the Head Mistress, Shishu Milan Primary School, Purum Khullen

(hereinafter referred to as "**the Primary School**)" wrote a letter dated 16-07-2020 to the Principal, JNV, Kangpokpi informing that an investigation was conducted pursuant to the receipt of complaints and after the attendance of their children being found to be low during the academic session, 2019-2020, their names were cancelled by the school or in other words, effectively their Class-V promotional examination was cancelled by the school. Immediately thereafter, the petitioners submitted a representation dated 18-07-2020 to the Deputy Commissioner, Navodaya Vidyalaya Samity, Regional Office, Shillong. On the same day, ie., 18-07-2020, the Principal, JNV, Kangpokpi addressed a letter to the petitioners informing that a complaint was received from the Kuki Students Organisation regarding the ineligible admission of their children due to cancellation of the mark sheets/ certificates by their respective school authorities, followed by a letter dated 01-08-2020 informing that the admissions of their children had not been considered due to cancellation of the mark sheets and the certificates, produced by them, by the concerned Head Mistress/ Deputy Inspector and ZEO, Kangpokpi Districts. The petitioners submitted another representation dated 05-08-2020 to the Deputy Commissioner, Navodaya Vidyalaya Samity, Regional Office, Shillong requesting him to solve the issue relating to the admissions of their children.

[3.3] Being aggrieved by the said letters dated 16-07-2020, 18-07-2020 and 01-08-2020, the instant writ petition has been by the

petitioners questioning them on the inter-alia grounds that no opportunity of being heard was given to them before the cancellation of the mark sheets and the certificates of their children by the Head Mistress, Primary School and that the letter dated 16-07-2020 was written by the respondent No.3 in collusion with some of the persons/ organizations. Similar is the case with the letter dated 01-08-2020 issued by the Principal, JNV, Kangpokpi that no opportunity of being heard was given to them before the cancellation of the admissions of their children by the Principal, JNV, Kangpokpi. The cancellation of the admissions of their children by the Principal, JNV, Kangpokpi without any show cause notice being given to them, is in violation of the principles of natural justice. Such acts are arbitrary, malafide and unreasonable to the extent that they have been deprived of their fundamental rights guaranteed under the Constitution of India. Their children have been mentally disturbed and they are in psychological trauma.

[4] An affidavit-in-opposition has been filed on behalf of the respondent Nos.5 & 6 stating that Jawahar Navodaya Vidyalayas were established by the Government of India under the National Education Policy, 1986 and they are being run and managed by the Navodaya Vidyalaya Samity which is a body registered under the provisions of the Societies Registration Act, 1860. The procedure for admission to it has been laid down as stated in the affidavit. It has further been stated that after the cancellation of their children's Class-

V promotional examination by their respective school authority, the Principal, JNV, Kangpokpi had no option but to inform the petitioners about the cancellation of admissions of their children. The petitioners were informed about the receipt of the complaints vide its letter dated 18-07-2020. As per the instruction given by the Deputy Commissioner, Navodaya Vidyalaya Samity, Regional Office, Shillong, a meeting was conducted on 20-08-2020 chaired by its nominee but as per the criteria of the selection, the petitioner's children have not completed Class-V because their promotional examination for Class-V having been cancelled by their respective school authorities. Without passing the Class-V, their children cannot be admitted in Class-VI at JNV, Kangpokpi as per the norms and guidelines for admission.

[5] Before considering the rival contentions of the parties, it may be appropriate for this court to examine as to what are the principles of '**Natural justice**' and what are its extent and scope. Natural justice is an important concept in administrative law. It is not possible to define precisely and scientifically the expression 'natural justice'. It is, like the doctrine of ultra vires and public policy, is a branch of public law. The law is settled after the powerful pronouncement of **Byles, J in Cooper Vs. Wandsworth Board of Works** wherein it has been held that although there are no positive words in the statute requiring that the party shall be heard, yet the justice of the common law will apply the omission of the legislature. The above principle is accepted

in India also. In the case of **A.K. Karaipak Vs. Union of India, reported in (1969) 2 SCC 262**, the Supreme Court propounded:

> *'The aim of the rules of natural justice is to secure justice or to put negatively to prevent miscarriage of justice. These rules can operate in areas not covered by any law validly made. In other words, they do not supplant the law of the land but supplement it'.*

In **Maneka Gandhi Vs. Union of India, reported in (1978) 1 SCC 248**, the Supreme Court observed:

> *'It is well established that even where there is no specific provision in a statute or rules made there under for showing cause against action proposed to be taken against an individual, which affects the right of that individual the duty to give reasonable opportunity to be heard will be implied from the nature of the functions to be performed by the authority which has the power to take positive or damaging actions'. The Supreme Court observed: "The rigid view that the principles of natural justice applied only to judicial and quasi-judicial acts and not to administrative acts no longer holds the filed".*

In **Mohinder Singh Gill Vs. Chief Election Commissioner reported in (1978) 1 SCC 405**, Krishna Iyer, J says "indeed, from the legendary days of Adam- and of Kautilya Arthashastra- the rule of law has had this stamp of natural justice which makes it social justice".

The expression "civil consequences" used in **National Textile Workers' Union Vs. PR Ramakrishnan reported in (1983) 1 SCC 228** has not been defined. But in Mohinder Singh Gill case,

Krishna Iyer, J observed: “In its comprehensive connotation, everything that affects a citizen in his civil life inflicts a civil consequence”. In **Sahara India (Firm) Vs. CIT reported in (2008) 14 SCC 151**, the Supreme Court held that with the growth of administrative law, the old distinction between judicial act and administrative act has withered away.

Today, even a pure administrative action entailing civil consequences must be consistent with the rules of natural justice. In **Union of India Vs. PK Roy, reported in AIR 1968 SC 850**, the Supreme Court observed: “The extent and application of the doctrine of natural justice cannot be imprisoned within the straitjacket of a rigid formula”. Similarly in A.K. Kairakpak case (supra), the Supreme Court observed that what a particular rule of natural justice should apply to a given case must depend to a great extent on the facts and circumstances of that case. **In Canara Bank Vs. V.K. Awasthy reported in (2005) 6 SCC 321**, after referring to several decisions, the Hon’ble Supreme Court stated:

> *“Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice”.*

In **Dev Dutt Vs. Union of India reported in (2008) 8 SCC 725**, the Hon’ble Supreme Court observed that the rules of natural

justice are not codified nor are they unvarying in all situations, rather they are flexible.

[6] In the present case, it is not in dispute that the norms and guidelines have been laid down for admission to Class-VI at Jawahar Navodaya Vidyalayas and in terms thereof, the test was in fact conducted by the Central Board of Secondary Education, New Delhi for the academic session, 2020-2021. The children of the petitioners appeared for it and were selected and on the basis of their performance, they were admitted in Class-VI at JNV, Kangpokpi. After their children having been admitted, the Head Mistress, Primary School, Porum Khullen cancelled their children's Class-V promotional examination with the result that the admissions of their children were cancelled by the Principal, JNV, Kangpokpi.

[7] It is nowhere stated in the affidavit filed on behalf of the respondent Nos.5 & 6 that an opportunity of being heard was given to the petitioners before the cancellation of the admissions of their children except that the petitioners were informed about the receipt of the complaint vide letter dated 18-07-2020 of the Principal, JNV, Kangpokpi. Before the cancellation of the admissions of their children, non-consideration of the petitioner's views will tantamount to violation of the principles of natural justice. In other words, no opportunity of being heard was given to the petitioners. So far as the cancellation of their children's Class-V promotional examination is concerned, no affidavit has been filed by the respondent No.4 nor has any affidavit

been filed on behalf of the respondent Nos.1 to 3. Since the averments made in the writ petition have not been denied by them, the same will be deemed to have been admitted by them in terms of the law laid down by the Hon'ble Supreme Court in a catena of decisions. The action taken by the respondent No.4 or for that matter, the cancellation of their children's Class-V promotional examination without an opportunity of being heard being given to the petitioners is absolutely in violation of the principles of natural justice amounting to violation of Article 14 of the Constitution of India.

[8] In view of the above, the instant writ petition is allowed and consequently, the impugned letter dated 16-07-2020 issued by the Head Mistress, Shishu Milan Primary School, Purum Khullen and the letters dated 18-07-2020 and 01-08-2020 issued by the Principal, Jawahar Navodaya Vidyalaya, Kangpokpi are quashed and set aside with the result that the children of the petitioners shall be allowed to attend classes physically or online as adopted by the school in the present circumstances. However, it is made clear that this judgment and order will not preclude the respondents and in particular, the respondent Nos.4 & 6 from proceeding afresh with the cases of the petitioner's children in accordance with law.

JUDGE

Yumkham Rother
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