

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 84 of 2020**

Minor Samar Kumar Meshram S/o Vaibhav Kumar Meshram Aged About 6 Years R/o Bhawani Chowk, Amapara, District- Uttar Bastar Kanker Being Minor Through Father Vaibhav Kumar Meshram, Aged About 39 Years, S/o Mr. Gyandas Meshram, R/o Bhawani Chowk, Amapara, Kanker, District - Uttar Bastar Kanker Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through Its Secretary Ministry Of Human Resource Development, Department Of School Education And Literacy IS 3 Section, Room No. 407-C, Shastri Bhawan, New Delhi
2. Kedriya Vidyalaya Sangathan Through Its Secretary, New Delhi
3. Principal Kendriya Vidyalay Kanker, Near Nagar Sanik Office, Singarbhat, District - Uttar Bastar Kanker, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Parag Kotecha, Advocate
For Respondents	:	Mr. B. Gopa Kumar, Asstt. S.G. along with Mr. Vaibhav B. Shukla, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****10/01/2020**

1. The challenge in the present writ petition is to the order Annexure P/2 dated 16.11.2019 passed by the Principal of the Kendriya Vidyalaya at Kanker i.e. respondent No.3.
2. The brief facts, which led to the filing of the present writ petition is that in the month of April, the petitioner is said to have got admission in class-1 of the Kendriya Vidyalaya at Kanker. His parents had also deposited the fees for the whole year through on-line payment. Admittedly, as per the pleadings of the petitioner and the submissions, which have been advanced by the counsel for the petitioner, the student had not attended the class for month after

taking admission. The fact that he had not attended the class for month together, the respondent authorities were compelled to issue Annexure P/2, canceling his admission vide order dated 16.11.2019. It is this order, which is under challenge in the present writ petition.

3. The contention of the petitioner in the present writ petition is that the petitioner has the protection of law under the “**Right of Children to Free and Compulsory Education Act, 2009**” and the Rules framed therein. According to the petitioner, the School Authorities did not have any power to cancel the admission. On the contrary, the School Authorities were duty bound to have ensured that the child even if he does not study, even if he does not attend the class for a single day, they should not have cancelled the admission, nor could they have failed him or withheld the child in the same class for the next session and should have permitted him to continue his classes till he completes the elementary education.
4. The counsel for the petitioner refers to Section 4 of the Act of 2019 and also to Rule 5 of the Rules framed under the said Act, which deals with special provisions for Children, who are not admitted or who have not completed elementary education.
5. According to the counsel for the petitioner, the respondent authorities should have taken some extra measures to ensure that the petitioner would have studied and could have competed with the other students, who are regularly attending the classes and under no circumstances, could the School Authorities have cancelled the admission as a consequence expelling these students, particularly at the mid session.

6. First of all, what has to be realized is the fact that the petitioner has not got the admission to the Kendriya Vidyalaya under the provisions of aforementioned Act of 2009. The petitioner had got a regular admission. Another fact, which is revealed from the documents, which have been filed along with the writ petition is that even in the previous academic session i.e. for the Academic Year, 2018-19, the petitioner was studying in class-1 and it appears that the child has repeated himself in class-1 for the next Academic Year i.e. 2019-20 also. Even in the repeat year the conduct of the petitioner does not seem to have improved and the admitted factual position is that the child has not attended even a single class from month of April till the date the impugned order was passed.
7. From the very conduct of the petitioner itself, it reveals that he is not interested in pursuing with his studies or atleast is not interested to study in the school of the respondents. Undoubtedly, the Kendriya Vidyalayas are considered prestigious institutions in the entire country. It is with great difficulties children are able to get admission to such institutions. The fact, when a child gets an admission in the school, it is expected that there would abide by the norms and discipline of the school including that of regularly attending the classes. Unless ofcourse the child is not able to attend the class for some reasons beyond his control or the child suffers from some sort of a disability, which in the instant case is not the ground.
8. Coming to the Act of 2009 itself in the schedule provided to the Act, the norms and the standards for a school has been specified and one of the norms given is the minimum number of working days and

the instructional hours in an Academic Year. The very purpose of prescribing the minimum number of working days and instructional hours is to ensure that the child is able to be provided with the minimum of all the classes that has to be undertaken in a school for a particular class, with which he will be able to compete in the examination which are conducted annually. It is also with an intention that the child is not put to loss because of the non-performance of the institution. When such minimum standards are fixed under the Act itself, it is always expected that the children who gets an admission also abides and attends the classes regularly without there being any break for unnecessary reasons.

9. Just because Section 4 of the Act of 2009 or Rule 5 of the said rule of 2010 provide for special provisions and at the same time Section 16 of the Act provides that no child should be failed in a class until he completes the elementary education by itself does not mean that the child need not study at all after taking admission. It also does not mean that the child even if he does not attend the classes for a single day would be permitted to be promoted to the next class without even knowing the basics of the previous class in which he has got himself admitted.
10. Given the said facts and circumstances of the case, if the respondent-institution as a measure of maintaining the minimum standard and discipline in the institution, if they have cancelled the admission of the petitioner, particularly taking note of the fact that the petitioner was also there in the same school in the same class in the

previous academic year also, it cannot be said that the impugned order to be in any manner bad in law, arbitrary or illegal.

11. So far as the contention of the petitioner that the petitioner has a protection under Article 21A, so also under the provisions of Section 16 of the Act of 2009 is concerned, in the opinion of this Court the same cannot be taken as a matter of right for the petitioner after having got an admission. The petitioner would have to abide by the minimum standard norms and discipline including that of attendance in a particular school for a particular year, therefore, the said ground which the petitioner has raised would not be applicable in the given facts.
12. The writ petition accordingly fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved