

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 145 of 2020

(Arising out of order dated 10.01.2020 passed by learned Single Judge in WPC- 84 of 2020)

Minor Samar Kumar Meshram S/o Vaibhav Kumar Meshram Aged About 6 Years Resident of Bhawani Chowk, Amapara, District U.B. Kanker Being Minor Through Father Vaibhav Kumar Meshram, Aged About 39 Years, S/o Mr. Gyandas Meshram, Resident of Bhawani Chowk, Amapara, Kanker, District- U.B. Kanker Chhattisgarh.

----Appellant

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. Kendriya Vidyalaya Sangathan Through Its Secretary, New Delhi, Delhi.
3. Principal Kendriya Vidyalaya Kanker, Near Nagar Sanik Office, Singarbhat, District Bb Kanker Chhattisgarh.

-----Respondents

For Appellant : Shri Parag Kotecha, Advocate.

For Respondents : Shri Himanshu Pandey, Advocate on behalf of Shri B. Gopa Kumar, Assistant Solicitor General.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

Per PR Ramachandra Menon, CJ

18.02.2020

1. The petitioner has moved this Court with the following prayers :-

“10.1 Quash/set aside the letter/order dated 16.11.2019.

10.2 Direct the respondents to permit and allow the petitioner to prosecute his studies in Class 1st

10.3 Pass an appropriate order by punishing the respondent No.3, for violation of the provision contain the Right of Children to Free and Compulsory Education Act 2009 are not permitting the petitioner to attend the classes.

10.3 The Hon'ble Court may kindly be pleased to call the entire record which are related to present case.

10.4 Any other relief which this Hon'ble Court deems fit be granted and the cost of the petitioner may also kindly be awarded in favour of the petitioner.

2. When the matter came-up for consideration before this Court on 11.02.2020, the following order was passed :-

“ Leaned Assistant Solicitor General representing the respondents submits that the student has attended the school only for 14 days in the academic session 2018-19 and he has not attended even for a single day in the academic session 2019-20. As per Article 106 of Promotion Rules; it is open to have the name of the student to be removed from the roll and that alone has been done by the respondents which is perfectly within the four walls of the law.

Learned A.S.G. further submits that the Transfer Certificate (T.C.), however, has not been issued, adding that, once the T.C. is issued, the seat vacated can be filled up by giving lateral entry to any other candidate who is desirous to come and join the school. It is also stated that, if a proper assurance is given by any of the parents of the student for proper attendance of the student in the school, the order already passed can cause to be reconsidered.

Learned counsel appearing for the appellant submits that the appellant is ready to file an affidavit before this Court, apart from filing necessary undertaking before the authorities of the school to honour the commitment and to promote discipline in all respects and that further course and conduct could be strictly monitored in terms of the Promotion Rules and that natural consequence would follow, if at all, there is any lapse on the part of the student concerned.

Learned counsel for the appellant seeks to have a posting in the next week to file proper affidavit before this Court, and for giving the undertaking before the authorities of the school.

Post it in the next week.”

3. Pursuant to the said order, the learned counsel for the appellant submits that an 'undertaking' has already been filed before the third respondent/School as desired, with regard to the further studies of the minor child, who is in the first standard, and that an affidavit has also been filed before this Court, along-with covering memo dated 17.02.2020 in this regard.
4. In the above circumstances, the appeal is disposed off, directing the third respondent/School to consider the representation and pass appropriate orders so as to facilitate continuance of studies of the child in the School, subject to the rules/discipline to be maintained all throughout. It shall be for the appellant to ensure that the assurance given in the undertaking/affidavit is given effect to all throughout.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge