

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 809 of 2020**

1. Iqbal Singh S/o Late Shri Tarsem Singh, Aged About 48 Years R/o - E W S 671, Vaishali Nagar, Bhilai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. Anand Verma, S/o Late Shir K. P. Verma, Aged About 46 Years House No. 1208, Street No. 24, Shanti Nagar, Bhilai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya, Nava Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Directorate Of Public Instructions, Through The Director, Indravati Bhawan, Nava Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. District Education Officer, Bhilai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh
4. Mar Baselios Vidhya Bhavan, Through Its Principal, Shanti Nagar, Post Office Bhilai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents

For Petitioners : Mr. K. Rohan, Advocate

For State : Mr. Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**ORDER****26.06.2020**

Heard.

1. The instant petition is by two parents of the students who studying in Mar Baselios Vidhya Bhavan, the respondent No.4. It has been stated that son of the petitioner No.1 is studying in Class-XI and son of petitioner No.2 is studying in Class-III.
2. Learned counsel for the petitioners submits that the respondent No.4 is now shifted the School in the outskirts of Bhilai, which is 5-6 Km away. Earlier while the admission was being done, it was in the neighbourhood, therefore,

without there being any sanction, the premises is shifted. It is stated the State would be the appropriate Government under Section 2 of the Right of Children to Free & Compulsory Education Act, 2009 (*for short "the Act, 2009"*), the School cannot be shifted as the right is guaranteed with under Section 3 of the Act, 2009, which provides that education has to be provided in the neighbourhood school. It is further contended that by shifting of the School to 5-6 Km away, the neighbourhood word which has been used in the Act, 2009 would be defeated and the petitioners' children would be deprived of their right which is guaranteed under the Act, 2009. Further reference is made to Section 6 of the Act, 2009 and would submit that it is the duty of appropriate Government and local authority to establish the School and Section 8(b) mandate them to ensure availability of a neighbourhood School as specified in Section 6. Therefore, if the School is shifted to outskirts then in such case the right of the children to get education which is guaranteed under the Act, 2009 would be defeated.

3. State counsel would submit that there is no pleading has been made that no other School in the neighbourhood exists or is unavailable, therefore, per se the Act, 2009 as to whether the State has refused to discharge the obligation to impart education will not apply and the State has not failed to discharge the duty and obligation imposed under the Act, 2009; therefore, no relief can be granted to the petitioners.
4. Primarily reading of the pleading would show that the primary object of filing of this petition is to arrest the shifting of the premises of the School of respondent No.4 to a place other than where it is being run i.e. to shift the School from Shanti Nagar to Kailash Nagar Engineering College, which is said to be 5-6 Km away. The object of the Act, 2009 provides elementary education for strengthening the social fabric of democracy through provision of equal opportunities to all. It laments the object of Constitution that State

shall provide free and compulsory education to all children up to the age of 14 years. It further takes into sweep the number of children, particularly children from disadvantaged groups and weaker sections, who drop out of school before completing elementary education since are very large; therefore, the quality and the number are to be arrested. With such object the Act of 2009 was promulgated.

5. The primary object of the Act therefore is to provide the education to disadvantaged groups and weaker sections. The petition is silent as to what are the neighbourhood other School which are available, even if, the premises of the School, respondent No.4 are shifted to 5-6 Km away. If such School in the neighbourhood are absent then in such case some thought could have been given as to the availability of the School in the neighbourhood. Furthermore, the submission of the petitioner if are examined in it's own logic, the fact surfaces that once a School starts in a certain premises then it cannot be shifted for the time immemorial to other vicinity in as much as there would have been always the students from Class I to XII. In such circumstances, if any-one student is of the opinion that premises could not be shifted with the interpretation as projected by aid of the Act, 2009, then in such eventuality if the shifting is restrained it would be some foreign logic and interpretation of the Act of 2009. Shifting of the premises to a better or newly constructed place cannot be amalgamated with wrong interpretation of Act, 2009 as it would create an innovative barrier not in the statute. Under these facts, I did not find any reason to entertain this petition.

6. The petition sans merit and accordingly is dismissed.

Sd/-
Goutam Bhaduri
Judge