

\$~A-18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 2534/2013
VIJAY SHARMA Petitioner
Through Mr.Tekchand Sharma, Adv.

versus

UNION OF INDIA AND ORS Respondents
Through Mr.S.Rajappa, Adv.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

% **ORDER**
11.03.2020

1. This writ petition is filed by the petitioner seeking directions to the respondents- i) to roll back the hiked in fee in respect of ex-servicemen category; ii) to seek necessary clarification issued in the Kendriya Vidyalaya guidelines; iii) and to scrutinize the fee process as mentioned in the Kendriya Vidyalaya. Other connected reliefs are also sought.
2. The case of the petitioner is that the husband of the petitioner is retired from Indian Air Force and is settled in Delhi. It is stated that on 04.04.2013, the petitioner approached the principal of the Kendriya Vidyalaya near Karkardooma Court to enquire about the fee hike and to provide the circular for the same.
3. It is also the grievance of the petitioner that ex-servicemen category do not change after retirement but Kendriya Vidyalaya had neglected ex-servicemen category. It is claimed that unreasonable unscheduled fee hiked by Rs.1,800/- fixed, whereas the petitioner whose family pension is only Rs.8,000/-. It is further claimed that Kendriya Vidyalaya authorities also

changed the school uniform putting extra burden on the parents/ex-servicemen parents. It is claimed that the fee hike in Government/Kendriya Vidyalaya schools (*hereinafter referred to as the 'KVS'*) is unjustified and unreasonable.

4. Respondents No.2 to 4 have filed a counter affidavit. I may note that the counter affidavit was filed on 24.11.2014. It is pointed out that KVS are run under four sectors, namely, Civil Sector, Defence Sector, Project Sector and Institute of Higher Learning. In civil sector schools, the land for school building and sports ground is provided by the State Government concerned. The building is constructed by KVS and subsequently all expenditures to run the school is borne by KVS. In the case of project sector schools, the land and building are provided by the project concerned and the recurring and non-recurring expenditure is also borne by the project concerned and KVS provides teaching and non-teaching staffs. The salary of all the employees alongwith maintenance of the school building and sports ground are borne by the project concerned.

5. After the RTE Act, 2009 came into force, KVS is implementing the directions by providing admission to children belonging to disadvantaged groups to the extent of 25% in class-I in all Kendriya Vidyalayas and exempting them totally from payment of any kind of fees or charge.

6. It is stated that the VVN and computer fee has been enhanced w.e.f. 2013-14 as decided by the Board of Governors for meeting the increasing expenditure in the schools. However, there is no change in the fee of children admitted under the RTE quota of 25%.

7. I have heard learned counsel for the parties.

8. Learned counsel for petitioner insists that his client being an ex-

serviceman is entitled to insulation/exoneration from any fee hike by the Kendriya Vidyalayas. Reliance is placed on some administrative circulars which are filed in court to the said effect.

9. Learned counsel appearing for respondents reiterates that the hike of fees is reasonable and cannot be struck down by this court. He also relies upon the judgment of the Division Bench of this court in the case of ***Social Jurist, A Civil Rights Group v. Kendriya Vidyalaya Sangathan & Anr., (2013) 205 DLT 659 (DB)***, decided on 13.12.2013 to support his case.

10. A perusal of the judgment of the Division Bench as noted above shows that it was a public interest litigation. The issue that arose in the petition was the act of the Kendriya Vidyalaya Sangathan of charging fees under various heads from its students in civil sector schools and tuition fees from its students in public sector schools studying in class one to eight. It was urged that this is violative of Article 21A of the Constitution of India as well as violates provisions of the Right of Children to Free and Compulsory Education Act, 2009. The Division Bench held as follows:

“11. In our opinion, Kendriya Vidyalaya Sangathan schools are governed by Section 12(1)(c) of RTE Act which only mandates that a school specified in sub-clauses (iii) and (iv) of clause (n) of Section 2 must admit twenty five per cent of its strength in class one from children belonging to weaker section and disadvantaged group in the neighbourhood and must provide them free and compulsory elementary education. RTE Act does not mandate that no fees shall be charged from the remaining seventy five per cent of its students. Section 12(1)(c) is reproduced hereinbelow:-

“12. Extent of school’s responsibility for free and compulsory education-(1) For the purposes of this Act, a school,—

XXXX XXXX XXXX XXXX

(c) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent, of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion: Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.” (emphasis supplied)

12. Keeping in view the aforesaid Section, this Court is of the opinion that the action of the respondent in charging Vidyalaya Vikas Nidhi and computer fund from students not admitted under the RTE Act, is legally justified and not violative of Article 21-A of the Constitution of India and Section 3 of RTE Act.

13. It is pertinent to mention that the constitutional validity of RTE Act has been upheld by the Supreme Court in Society for Unaided Private Schools of Rajasthan (supra) for all schools except Section 12(1)(c) with regard to unaided minority schools.”

11. As noted above, the petitioner could only plead against the fee hike stating that the petitioner is an ex-servicemen and that in some circular which was placed on record a submission was noted of the concerned Minister that a mechanism will be devised to ensure that the students from economic weaker sections and whose parents are not government employees are not affected by the hike.

12. In my opinion, other than bald plea, no worthwhile submission has been raised as to why the fee that has been charged by the Kendriya

Vidyalaya is illegal or cannot be charged. The issue even otherwise is covered by the judgment of the Division Bench of this court in the case of ***Social Jurist, A Civil Rights Group v. Kendriya Vidyalaya Sangathan & Anr.(supra)***.

13. There is no merit in the petition and the same is dismissed. All pending applications, if any, are also dismissed.

JAYANT NATH, J.

MARCH 11, 2020/st