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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12th September 2023

+ **W.P.(C) 8383/2023**

**RIDDHIMA SINGH THROUGH HER FATHER SHAILENDRA
KUMAR SINGH** Petitioner

Through: Shailendra Kumar Singh, father of the
petitioner, appearing in-person.

versus

**CENTRAL BOARD OF SECONDARY EDUCATION THROUGH
ITS CHAIRMAN & ORS.** Respondents

Through: Ms. Seema Dolo, Advocate for
R1/CBSE.
Ms. Aishwarya Rao and Mr. Sumit
Jain, Advocate for R3/school.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under Article 226 of the Constitution of India, the petitioner acting through her father, seeks a writ of mandamus against respondent No.1/Central Board of Secondary Education ('CBSE'), directing them to pay compensation for alleged "... *intentional harassment, mental trauma of holding back petitioner in class VII for two academic years ...*", allegedly in violation of the provisions of the Right of Children to Free and Compulsory Education Act, 2009.



2. The petitioner purports to peg the compensation at an amount equal to the annual income of the petitioner's father/family *or* 10% of the annual income of respondent No. 3/Indirapuram Public School, Ghaziabad, U.P. ('school'). The petitioner also seeks other consequential and ancillary reliefs.
3. Though notice on this petition was issued *vide* order dated 02.06.2023 and the respondents were directed to file counter-affidavit *inter-alia* addressing the issue of territorial jurisdiction of this court to entertain the petition, Ms. Aishwarya Rao, learned counsel appearing for respondent No.3/school and Ms. Seema Dolo, learned counsel appearing for respondent No.1/CBSE, submit that the petitioner's father is a compulsive litigant and has filed numerous petitions before various courts, asserting sundry claims, despite the consistent view taken by various Benches that this court has no territorial jurisdiction to entertain the subject matter of the claims sought to be raised by the petitioner. Counsel accordingly submit, that the respondents be not directed to file counter-affidavits since that would be unnecessary, and would also encourage further frivolous litigation by the petitioner, which would clog the already overburdened docket of this court.
4. Attention in this behalf is drawn *inter-alia* to the following petitions filed by the petitioner, which have been dismissed by other Benches of this court for the reasons indicated :



S.No.	Case No.	Cause Title	Decision
1.	W.P.(C) No. 6007/2019	Riddhima Singh (Minor) through Her Father Shailendra Kumar Singh vs. Central Board of Secondary Education and Others	Dismissed <i>vide</i> order dated 04.06.2021, holding in para 31 that mere inclusion of the CBSE as a party in the petition does not automatically confer jurisdiction upon the court under Article 226 of the Constitution of India. The court may decline to entertain the writ petition if it determines that it is not the most suitable forum for the matter at hand.
2.	Review Petition No. 94/2021 in W.P.(C)No. 6007/2019	Riddhima Singh (Minor) through Her Father Shailendra Kumar Singh vs. Central Board of Secondary Education and Others	Dismissed <i>vide</i> order dated 08.07.2021 with costs of Rs. 30,000/- imposed on the petitioner.
3.	LPA No. 318/2020	Riddhima Singh Through her father Shailendra Kumar Singh vs. Central Board of Secondary Education & Ors.	Dismissed <i>vide</i> order dated 25.03.2021 pursuant to an agreement between the parties stipulating that the petitioner would appear for Class VII and Class VIII examinations; and she would be upgraded to Class IX, subject to successfully passing previous examinations.



4.	LPA No. 243/2021	Riddhima Singh Through her father Shailendra Kumar Singh vs. Central Board of Secondary Education New Delhi & Ors.	Dismissed as withdrawn <i>vide</i> order 07.12.2022 seeking liberty to file appropriate application before the Allahabad High Court in the pending writ petition bearing WRIT C. No. 46207/2017.
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5. Ms. Rao further submits that the petitioner has also filed before the Allahabad High Court a writ petition titled ***Shailendra Kumar Singh and 7 Others vs. State of U.P. And 11 Others*** bearing WRIT C. No.46207/2017 in relation to connected claims and disputes; which is still pending before that court.
6. Be that as it may, and without commenting on the merits of the claims made on her behalf by the petitioner's father, from the Memo of Parties it is noticed that the petitioner is ordinarily a resident of District Ghaziabad, Uttar Pradesh ('U.P. '); and respondents Nos. 2 and 3 *viz.* State of U.P. and Indirapuram Public School, Ghaziabad are also situate in Uttar Pradesh. To be sure, the petitioner has attempted to found territorial jurisdiction in Delhi merely because respondent No. 1/CBSE is headquartered in Delhi.
7. At this point, reference is made to the decision of the Supreme Court on the principle of *forum non-conveniens* and its applicability to writ proceedings rendered in ***Kusum Ingots & Alloys Ltd. vs. Union of India & Anr.***¹ wherein the Supreme Court has made the following observations :

¹ (2004) 6 SCC 254



“26. The view taken by this Court in *U.P. Rashtriya Chini Mill Adhikari Parishad* that the situs of issue of an order or notification by the Government would come within the meaning of the expression “cases arising” in clause 14 of the (Amalgamation) Order is not a correct view of law for the reason hereafter stated and to that extent the said decision is overruled. In fact, a legislation, it is trite, is not confined to a statute enacted by Parliament or the legislature of a State, which would include delegated legislation and subordinate legislation or an executive order made by the Union of India, State or any other statutory authority. In a case where the field is not covered by any statutory rule, executive instructions issued in this behalf shall also come within the purview thereof. Situs of office of Parliament, legislature of a State or authorities empowered to make subordinate legislation would not by itself constitute any cause of action or cases arising. In other words, framing of a statute, statutory rule or issue of an executive order or instruction would not confer jurisdiction upon a court only because of the situs of the office of the maker thereof.”

(emphasis supplied)

8. Furthermore, in *M/s Sterling Agro Industries Ltd. vs. Union of India & Ors.*,² this court was called upon to consider the correctness of the view taken in *New India Assurance Company Ltd. vs. Union of India & Ors.*³ in which (latter) case the court had made the following observation:

“34. For the foregoing reasons, we hold that where an order is passed by an appellate authority or a revisional authority, a part of cause of arises (sic) at that place. When the original authority is situated at one place and the appellate authority is situated at another, a writ petition would be

² (2011) 181 DLT 658

³ AIR 2010 Del 43



maintainable at both the places. As the order of appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situated having regard to the fact that the petitioner is dominus litis to choose his Forum, and that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens.”

(emphasis supplied)

9. However, in *Sterling* (supra), this court overruled *New India Assurance* (supra) holding as follows :

“31. The concept of forum conveniens fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the lis, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the Apex Court has clearly stated in the cases of *Kusum Ingots* (supra), *Mosaraf Hossain Khan* (supra) and *Ambica Industries* (supra) about the applicability of the doctrine of forum conveniens while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

32. The principle of forum conveniens in its ambit and sweep encapsulates the concept that **a cause of action arising within the jurisdiction of the Court would not itself constitute to be the determining factor compelling the Court to entertain the matter. While exercising jurisdiction under Articles 226 and 227 of the Constitution of India, the Court cannot be totally oblivious of the concept of forum conveniens.** The Full Bench in *New India Assurance Co. Ltd.* (supra) has not kept in view the concept of forum conveniens and has expressed the view that if the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.”

(emphasis supplied)



10. Accordingly, in the above view of the matter, and in light of the law enunciated in the above decisions as regards territorial jurisdiction as seen from the prism of *forum non-convenience*, the present petition is dismissed; making it clear that the court has not expressed any opinion on the merits of the matter.
11. The petition is dismissed and disposed-of accordingly.
12. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 12, 2023/uj

(Released on : 19th September, 2023)