

State of Maharashtra

Vs

Vikas Sahebrao Roundale and others

Civil Appeal No. 2932 of 1992

(N. M. Kasliwal, K. Ramaswamy, G. N. Ray JJ)

11.08.1992

JUDGEMENT

K. RAMASWAMY, J.:-

1. Special leave granted. This Court judicially noticed mushroom growth of ill-equipped and understaffed unrecognised educational institutions in Andhra Pradesh, Bihar, Tamil Nadu and Maharashtra States and other States too are no exceptions. Obviously the field of education is found to be fertile, perennial and profitable business ventures with least capital outlay. This case is one such from the State of Maharashtra.

2. It would appear that, individuals or societies without complying with the statutory requirements, establish educational or training institutions ill-equipped to impart education and have the students admitted, in some instances despite warnings by the State Govt. and in some instances without knowledge of the concerned State Govt., but with connivance at lower levels.

3. In this case the respondents, in all 129, were admitted to D.Ed. course by unrecognised Yashomati Adhyapak Vidhyalaya, Warthi, District Bhandara. When the examinations were to commence from April 18, 1991, the management finding it difficult to have them sit for the examination, obviously encouraged the respondents to tap the doors of the High Court of Bombay at Nagpur Bench who sought direction to permit them to appear in the examination to be held on that day. The Division Bench allowed the Writ' Petition No. 2450 of 1990 by order dated April 8, 1991 and directed the appellant to permit the respondents to sit in the examination for the first year commencing from April 18, 1991 and after their passing the examination, the passed candidates should be accommodated in a recognised institution to prosecute further courses. Assailing the legality thereof this appeal has been filed.

4. Sri Dholakia, the learned senior counsel for the appellants, contended that the respondents having had admission in an unauthorised college, have no right to seek writ of mandamus or direction from the Court to permit them to sit for the examination or to accommodate them in the recognised institutions to pursue further study. It is also contended that the direction issued by the High Court runs counter to the statute and in virtue directing the authorities to disobey the law which is impermissible. We find force in the contention.

5. In N. M. Nageshwaramma v. State of Andhra Pradesh, 1986 (Supp) SCC 166: AIR 1986 SC 1 188 this Court held that the private institutions unauthorisedly established were invariably ill-housed, ill-staffed and illequipped. If the Govt. is directed to permit the students admitted into those institutions, to appear in the examination, we will practically be encouraging and condoning the

establishment of unauthorised institutions. It is not appropriate that the jurisdiction of the Court either under Art. 32 or Art. 226 of the Constitution should be frittered away for such a purpose. So the request to permit the students who had training in unrecognised schools was deprecated by this Court.

6. In *A. P. Christians Medical Educational Society v. Govt. of Andhra Pradesh* (1986) 2 SCC 667: AIR 1986 SC 1490 when fervent request with all persuasion by the senior counsel, Sri K. K. Venugopal, to permit the students admitted in unrecognised and unauthorised institution to pursue balance course was made, this Court noted thus (at p. 1497 of AIR):

"We do not think that we can possibly accede to the request made on behalf of the students any direction of the nature sought for would be in clear transgression of the provisions of the University Act and the regulations of the University. We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the Court to disobey the laws."

The request to permit the students to appear in the examination and to accommodate them elsewhere to enable them to prosecute further study was negated by this Court.

7. In *All Bihar Christian Schools Association v. State of Bihar* (1988) 2 SCR 49 : (AIR 1988 SC 305), this Court, when the illequipped and mismanaged schools were taken over by an Act whose validity was challenged on the anvil of Art. 30 of the Constitution, held that even the minority institutions are subject to statutory regulations and establishment and maintenance of such an educational institution should be in conformity with the statute and the State is entitled to regulate the establishments of the educational institutions and the admission of the students in those educational institutions. It was held that the educational institutions of the minorities have no right to mal-administration. Any rule or direction issued by the Govt. to prevent mal-administration would be valid.

8. In *State of Tamil Nadu v. St. Joseph Teachers Training Institute* (1991) 2 JT (SC) 343, the High Court of Madras while dismissing the writ petitions filed by unauthorised educational institution, gave direction to admit the students for the examination. This Court held that the direction of admitting students of unauthorised educational institution and thus seeking direction for permitting the students to appear at the examination has been looked with disfavour by this Court. It was held that since the students of unrecognised institutions were legally not entitled to appear at the examination conducted by the education department of the Govt., the High Court acted in violation of law in granting permission to such students for appearing at the public examination. Accordingly the appeal was allowed and the direction issued was set aside.

9. In *Students of Dattatraya Adhyapak Vidyalaya v. State of Maharashtra*, SLP (C) No. 2067 of 1991 decided on 19-2-91, this @page-SC1929 Court held thus:

"We are coming across cases of this type very often where allegations are made that innocent students are admitted into unrecognised schools and are made to suffer. Some Courts out of compassion occasionally interfere to relieve the hardships. We find that the result of this situation is total indiscipline in the field of regulation."

10. In *Andhra Kesari Educational Society v. Director of School Education*, 1988 Supp (3) SCR 893:

(AIR 1989 SC 183), relied upon by the counsel for the respondents, no doubt this Court directed the Govt. to consider whether the students in the appellant's college have undergone the necessary B.Ed. course and has permitted them to appear in the ensuing examination and publish their results. In that case there was a long drawn history of the recognition of the institute and that the direction was issued by this Court in the special circumstances therein. Therefore, it cannot be taken as a precedent, in particular, in the light of the law laid down by this Court as stated supra.

11. Art. 51A enjoins every citizen by Cl. (h) to develop the scientific temper, humanism, the spirit of inquiry and reform and Cl. (J) enjoins as fundamental duty to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement; (a) respect for national flag and national anthem; (e) to promote harmony and spirit of common brotherhood amongst all the Indian people transcending religious, linguistic and regional or sectional diversities to renounce practice derogatory to the dignity of woman; (f) to value and preserve rich heritage of our composite culture, etc. are some of the basic duties which the budding students need to be inculcated and imbibed. They should be sowed in the receptive minds in their formative periods so that they take deep roots at maturity. The teacher needs, not only the training at the inception, but also periodical orientations in this behalf so that the children would reap the rich benefit thereof. The ill-equipped and ill-housed institutions and sub standard staff therein are counter productive and detrimental to inculcate spirit of enquiry and excellence to the students. The disregard of statutory compliance would amount to let loose of innocence and unwary children. The proceedings of the recent seminar held in Delhi, as published by the Times of India dated 4th August, 1992, would demonstrate the admission by the teachers that they are not properly trained to cope up with the growing needs of the society and are unsuited to the duties they have to shoulder in imparting teaching to the children. The teacher plays pivotal role in moulding the career, character and moral fibres and aptitude for educational excellence in impressive young children. The formal education needs proper equipment by the teachers to meet the challenges of the day to impart lessons with latest technics to the students on secular, scientific and rational outlook. A well equipped teacher could bring the needed skills and intellectual capabilities of the students in their pursuits. The teacher is adorned as Gurudevobhava, next after parents, as he is a principal instrument to awakening the child to the cultural ethos, intellectual excellence and discipline. The teachers, therefore, must keep abreast ever changing technics, the needs of the society and to cope up with the psychological approach to the aptitudes of the children to perform that pivotal role. In short teachers need to be endowed and energised with needed potential to serve the needs of the society. The qualitative training in the training colleges. or schools would inspire and motivate them into action to the benefit of the students. For equipping such trainee students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. In that behalf compliance of the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education. The directions to the appellants to disobey the law is subversive of the rule of law, a breeding ground for corruption and feeding source for indiscipline. The High Court, therefore, committed manifest error in law, in exercising @page-SC1930 its prerogative power conferred under Art. 226 of the Constitution, directing the appellants to permit the students to appear for the examination etc.

12. It is now conceded across the Bar that pursuant to the impugned direction, out of 129 students that appeared for examination, only one student had passed which tells a sad story of the quality of the training given to them and the passed student was accommodated in another recognised institution. His admission would remain undisturbed. It is also contended by the State that the

findings of the High Court that the eligibility of the respondents was in compliance with G. R. dated October 26, 1990 and the letter of the Dy. Officer, Jila Parishad, Bhandara dated Feb., 25, 1991 are contrary to the facts and are not properly appreciated by the High Court. There is force in the contention, but on the facts in this case, it is not necessary to decide the same and it is for the High Court in a proper case to consider the same properly and deal with the matter in accordance with law.

13. The appeal is accordingly allowed, but in the circumstances with no order as to costs. Appeal allowed.

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