
(2010) 09 UK CK 0212

In the Uttarakhand High Court

Case No : Writ Petition (MS) No. 1628 of 2010

Birendra Kumar Kanodia and Others

APPELLANT

Vs

Central Board of Secondary Education and Others

RESPONDENT

Date of Decision : 28-09-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 09 UK CK 0212

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Petitioner Nos. 2 to 8 are the students of "Welham Boys School", Dehradun (from hereinafter referred to as the School). Petitioner No. 1 is the father of petitioner No. 2 (who is one of the students). This writ petition has been filed by the petitioners challenging the orders of the Principal and the Disciplinary Committee of the School, whereby petitioner Nos. 2 to 8 were suspended. Thereafter, after the apologies were tendered by petitioner Nos. 2 to 8, the suspension order was modified to some extent inasmuch as the petitioners were suspended only till 23.10.2010, and thereafter, certain restrictions were imposed upon petitioner Nos. 2 to 8 regarding their movement in the School premises. In short, they were to be segregated from other students, although they were allowed to continue to their study and to appear in the Board Examination, for the year March-April, 2011.

2. Heard Mr. (Dr.) R.K. Srivastava, learned Counsel for the petitioners, Mr Gopal Narain, learned Counsel for respondent Nos. 1 and 2 and Mr. Kanwaljeet Singh, Advocate for respondent Nos. 3 and 4.

3. Mr. Kanwaljeet Singh, learned Counsel for the School has filed a counter affidavit in the Court today. The same is taken on record. In the counter affidavit, a preliminary objection has been raised regarding the maintainability of the writ petition as "Welham Boys School" is a private institution. This has, however, been vehemently contended by the counsel for the petitioners, who submits that in

view of the recent judgment of the Apex Court, the matter now stands settled and a writ petition is maintainable against any "person" or "authority" under Article 226 of the Constitution of India where even a private school would come under the definition of "authority" as, it is imparting a public function.

4. Be that as it may, before the issue of maintainability of the writ petition could be examined as a preliminary issue, there was a goodwill gesture shown by the Principal of the School Sri Dev Lahiri, who is present before the Court. He states that all that was done by him in his capacity as Principal of the school was in the interest of the Institution as well as in the interest of the students, and he is willing to take back the students to the School with no strings attached. They will not be segregated and will be treated as any other student. On this extremely good gesture of the Principal, which has been appreciated by the Court, this Court deems it fit and proper that the petition be disposed of on this statement alone.

5. Mr. (Dr.) R.K. Srivastava, learned Counsel for the petitioners also states that in view of the statement given by the Principal of the School, he would not be pressing this writ petition.

6. This writ petition is, therefore, disposed of with the following directions:

All the orders impugned in the writ petition i.e. order dated 10.8.2010, 3.9.2010 and 9.9.2010 and the conditions mentioned therein will remain inoperational and subject to the following conditions:

Each petitioner (petitioner Nos. 2 to 8) shall give to the Principal a written undertaking of his good behaviour and adherence to the discipline and the rules and regulations of the School and an assurance that he would abide by the discipline of the School. On this undertaking given by each of the petitioner separately (i.e. petitioner Nos. 2 to 8) to the Principal of the School, the students (petitioner Nos. 2 to 8) will be admitted to the School by the forenoon of 24.10.2010. From that day, they shall resume their activities, such as studying, participating in sports, co-curricular activities and every activity of the school as they had been doing in the past, when they left the institution on 10.8.2010.

7. The Principal of the School also given an undertaking that the students will be given "extra classes" to finish their courses in time and to cover any such classes, which they have missed during their suspension period. The Principal and Management of the College shall also ensure that their attendance is more than the requisite i.e. more than 75 % as required for sitting in the examination of the Central Board of Secondary Education.

8. With these observations and directions, as stated above, this writ petition is disposed of finally.

9. No order as to costs.

10. Copy of the order be given within twenty four hours from today.