

(1996) 11 SC CK 0002

In the Supreme Court Of India

Case No : Civil Appeal No. 14903 of 1996 Arising out of SLP (C) No. 25169 of 1995

Board of Secondary Education and Teachers Training

APPELLANT

Vs

Jt. Director of Public Instructions, Sagar and Others

RESPONDENT

Date of Decision : 22-11-1996

Acts Referred:

Constitution of India, 1950 — Article 30

Citation : (1998) 8 SCC 555

Hon'ble Judges : K. S. Paripoornan, J;B.P. Jeevan Reddy, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. The controversy in this case pertains to the choice of the management of a minority educational institution to choose the Principal for the school which is established and is administered by them. The management wanted to appoint one Shri Julius Prasad, who is a teacher in the same school and who is eligible according to the rules prescribed by the Madhya Pradesh Government. The rules not only prescribe the qualifications for appointment to the said post but also say that the appointment should be made by promotion. The third respondent is also a teacher in the school. She is also qualified according to rules for appointment to the said post. As between these two candidates, the management chose Julius Prasad who according to them is senior to the third respondent. The educational authorities refused to approve the appointment of Julius Prasad and approved the appointment of the third respondent. Complaining that the orders of the authorities approving her appointment were not being honoured by the management, the third respondent went to the High Court by way of a writ petition. The management also filed the writ petition in the High Court complaining against the non-approval of Julius Prasad as the Principal. The learned Single Judge allowed the writ petition filed by the third respondent and

dismissed the writ petition filed by the management. Letters patent appeals filed by the management and the Board of Secondary Education (in which the third respondent intervened) have been dismissed.

3. The decisions of this Court make it clear that in the matter of appointment of the Principal, the management of a minority educational institution has a choice. It has been held that one of the incidents of the right to administer a minority educational institution is the selection of the Principal. Any rules which take away this right of the management have been held to be interfering with the right guaranteed by Article 30 of the Constitution. In this case, both Julius Prasad selected by the management and the third respondent are qualified and eligible for appointment as Principal according to rules. The question is whether the management is not entitled to select a person of their choice. The decisions of this Court including the decision in *State of Kerala v. Very Rev. Mother Provincial* [1970 (2) SCC 417 : 1970 AIR(SC) 2079] and *Ahmedabad St. Xavier's College Society v. State of Gujarat* [1974 (1) SCC 717] make it clear that this right of the minority educational institution cannot be taken away by any rules or regulations or by any enactment made by the State. We are, therefore, of the opinion that the High Court was not right in holding otherwise. The State has undoubtedly the power to regulate the affairs of the minority educational institutions also in the interest of discipline and excellence. But in that process, the aforesaid right of the management cannot be taken away, even if the Government is giving hundred per cent grant. We need not go into any other question in this appeal.

4. The appeal is accordingly allowed. The judgment of the High Court is set aside and it is declared that the management of the school, which is admittedly a minority educational institution, had the right to choose Julius Prasad as the Principal of the school and that its choice cannot be interfered with by the State.

5. No costs.