

(2011) 10 SC CK 0009

In the Supreme Court Of India

Case No : Civil Appeal No's. 5244, 5245, 5246, 5247, 5248, 5249-5250, 5251-5252 of 2008 and Contempt Petition (C) No. 170 of 2005

Colvin School Society

APPELLANT

Vs

Anil Kumar Sharma and Others
B.P.S. Chauhan and Others Vs Sanjay Singh, Manager of the Committee of Management of Colvin Talqukdars" Inter College and Others

RESPONDENT

Date of Decision : 11-10-2011

Acts Referred:

Constitution of India, 1950 — Article 19, 19(1)

Uttar Pradesh Intermediate Education Act, 1921 — Section 16(D), 7(a)

Citation : (2011) 11 SCALE 427

Hon'ble Judges : R.V. Raveendran, J;H.L. Gokhale, J

Bench : Division Bench

Advocate : Rakesh Diwivedi and P.S. Narasimha, Shail Kumar DwivediAAG, Vivek Raj Singh, Sidharth Sengar, Pankaj Singh, Abhindra Maheswari, Vishwajit Singh, Shrish Kr. Mishra, Mukul Singh, Ajay K. Singh, Vanda Mishra, Mukesh Verma, Vivek Vishnoi, Aftab Alam, Rajneesh Kumar, Parmeshwar, Yash Pal Dhingra, Ranjan Dwivediand Niranjana Singh, for the Appellant;

Final Decision : Disposed Of

Judgement

H.L. Gokhale J.

1. Civil Appeal Nos. 5247, 5244, 5248, 5245, 5246 of 2008 arise out of a common order and judgment dated 17.11.2004 passed by a Division Bench of the Allahabad High Court at Lucknow on five Writ Petitions bearing Nos. 6415 (S/S) of 2002, 2759 (PIL) of 2003, 2049 (M/S) of 2003, 4704 (S/S) of 2003 and 7179 (M/B) of 2002. The Appellant is an educational society registered under the Societies Registration Act, 1860. The issue in these five appeals is with respect to the decision of the Appellant to shift the secondary and higher secondary courses of education conducted in its school and intermediate college, affiliated to the Board of High School and Intermediate Education of Uttar Pradesh ('U.P. State Board' for short), to the Indian Certificate for Secondary Education course ('ICSE

course' for short) by seeking affiliation with the Council for the Indian School Certificate Examination, New Delhi ('Council' for short).

2. Civil Appeal Nos. 5249-5250 of 2008 and 5251-5252 of 2008 arise out of Writ Petition Nos. 119 and 120 (S/S) of 2005 which were filed by a few teachers seeking salary as a consequence of the above order dated 17.11.2004. A learned Single Judge of Lucknow Bench of the Allahabad High Court had passed a common interim order dated 7.1.2005, on those two writ petitions in favour of the teachers, and the Appellant had filed Special Appeal Nos. 59 and 60 of 2005 from those interim orders. A Division Bench of the High Court hearing those two Special Appeals had left the interim orders undisturbed by its common order dated 8.2.2005. These interim orders as well as the orders on the Special Appeals have been challenged by the Appellant in Appeal Nos. 5249-5250 and 5251-5252 of 2008.

3. The Contempt Petition (C) No. 170/2005 has been filed by a few teachers alleging a breach of the interim order passed by this Court in these Civil Appeals.

Short facts leading to all these matters are this wise:

4. The Appellant is running a school and an intermediate college by name Colvin Taluqdar's Inter College in the City of Lucknow, U.P.. The college was established in the year 1889, and as the name of the college indicates, as per the social circumstances existing in those days, erstwhile Zamindars and Taluqdars had a great sway in the management of this college. After the U.P. Intermediate Education Act, 1921 came to be passed to regulate the secondary education in the State, the school and Inter-college got affiliated with the U.P. State Board constituted under the said Act. The students from this school and college have been appearing for the X and XII standard examination, also known as the Secondary School Certificate and the Higher Secondary School Certificate Examination conducted by this Board. Presently the college and the school run by the Appellant are situated on a piece of land admeasuring about 89 acres (in the prime area of the city of Lucknow) which has been leased out to the Appellant society by the Government of U.P. in 1964 on a nominal yearly rent of a few hundred rupees. The college and the school initially imparted education from classes VI to XII, but later on, a primary section was also added in 1967-68. The Government of U.P. sanctioned a recurring grant of Rs. 25,000/-for maintenance to the college in the year 1952, and it was increased from time to time. The College received the grants till 1993-94.

5. It is the case of the Appellant, that the strata of the society from which the students were attending this school and intermediate college slowly started preferring the schools affiliated to the ICSE Course. The number of students went on dwindling, and therefore the Appellant decided to switch over to the ICSE course run by the Council. The management sought the No Objection from the State of U.P. for this switch over, and the Joint Secretary of the Education Department of the State of U.P. informed the Appellant by his letter dated

26.4.1980 that the State Government had no objection to the Appellant-college getting affiliated to the course run by the Council subject to the following two conditions:

(1) An officer of the Education Department nominated by the State Government will be included in the Managing Committee by the Institution as the representative of the State Government.

(2) 10% of the seats will be kept reserved for the wards of the officers of the State Government and admission to other students against such seats will only be possible in case of said students (wards) not being available.

It is the case of the Appellant that consequently the ICSE Board, New Delhi, granted them certificate of affiliation on 25.11.1980 as a result of which the Appellant-college started imparting education in two wings, viz. a wing attached to the ICSE Board, and another with the U.P. State Board.

6. As the time passed further, the management of the Appellant noted that the strength of the students taking the course run by the U.P. State Board was going down rapidly. Whereas, in 1995-96 the students enrolled with the U.P. State Board were in the range of 1800-1900, by the academic year 2000-01 the number of such students went down to just about 700. It also noticed that it was becoming uneconomical to run the U.P. State Board Section. The management, therefore, thought that it would be advisable to close down the U.P. State Board Section.

7. The Appellant accordingly wrote to the authorities of U.P. State Board on 18.1.2002 that it had resolved that its affiliation with the U.P. State Board u/s 7(a) of the U.P. Intermediate Education Act, 1921 be surrendered at the end of the academic year 2001-02. The management of the Appellant wrote a letter to the authorities concerned on 18.8.2002, wherein they stated that they will continue to run the IX and XI standard classes for those students who will be appearing for the U.P. State Board examination later, but would like to close down the classes of VI to VIII with immediate effect. After sending this letter, the Appellant stopped giving admissions for classes VI to VIII.

8. In the meanwhile, the District Inspector of Schools (DIOS) wrote to the Appellant on 19.7.2002 that classes VI to VIII will have to be run by the management for the U.P. State Board Examination. In the letter dated 19.7.2002 he specifically stated as follows:

The N.O.C. issued by the State Govt. for its affiliation to ICSE, New Delhi contains a provision under which the college would continue to conduct class of 6,7, and 8. The Govt. has directed the institution to allow the students to appear for the examination of U.P. Board of High School and Intermediate Education along with examinations of ICSE. Under the circumstances, it is indispensable to conduct the classes of 6, 7 and 8 by this Institution.

This was followed by another letter dated 7.8.2002, directing the Appellant to

continue the admissions failing which an appropriate action will have to be taken against the Appellant.

9. (i) This led the committee of management of the Appellant to file Writ Petition No. 6415/2002, wherein they challenged the communications dated 19.7.2002 and 7.8.2002. In that matter a Single Judge of the High Court passed an interim order dated 14.11.2002, wherein he recorded that the counsel appearing for the opposite parties had made a statement on the basis of instructions, that he had no objection against the Appellant giving up the affiliation with the U.P. State Board. Accordingly, operation of the letters dated 19.7.2002 and 7.8.2002 was stayed.

(ii) Thereafter the college management published a notice in a Lucknow Newspaper Dainik Hindustan on 31.11.2002 for the information of the public at large that the classes affiliated with the U.P. State Board were going to be closed down. A few teachers and the Parent-Teachers Association filed a PIL bearing No. 2759/2003 to challenge this notice, and seek the appointment of an authorized controller to run the institution.

(iii) One more Writ Petition bearing No. 2049/2003 was filed by some 14 teachers to issue a direction that classes VI to VIII should be directed to be run for the U.P. State Board Examination.

(iv) Some junior teachers came to be relieved by the college management by order dated 30.7.2003, which led to the filing of one more Writ Petition bearing W.P. No. 4704/2003 to challenge the said decision and to seek salaries.

(v) Thereafter, a PIL bearing Writ Petition No. 7179/2002 was filed praying that the Government should take over the management of the school, and should not renew the lease of the land given to the institution.

10. All these five writ petitions came to be heard together by a Division Bench. The principle submission of the Appellant was that the objection of the Respondents to the switch-over to the ICSE course was unjustified and untenable in law. The Respondents on the other hand contended that the permission of the U.P. State Board for closing down the U.P. State course was necessary under Regulation No. 10 of the U.P. Intermediate Education Act, 1921. The petitions were decided by a Division Bench of the High Court by its judgment and order dated 17.11.2004. The operative para 63 thereof reads as under:

63. In view of the conclusion reached above, all the five writ petitions are finally disposed of as under:

1. The order dated 30.7.2003 (annexure-1 to 11) by which the services of the Petitioners of writ petition No. 4704 of 2003 were dispensed with, are quashed with a direction to the College/Management to ensure payment of salary etc. to these teachers as if the orders dated 30.7.2003 were never in existence.

2. The opposite parties are directed to ensure that so long as the UP Board Wing

of the College continues to be recognized one, education to the students from classes VI to XII is imparted, as was being done prior to the filing of these writ petitions.

3. The Board of High School and Intermediate Education is hereby directed to take an early decision and to communicate the decision so taken to the College, within a period of two months from today, under Regulation 10 of Chapter VII of the Regulation on the notice/letter dated 14/18.1.2002 of the management proposing to close down UP Board Wing of the College.

4. In the event of permission for closing down the UP Board Wing is refused by the Board, the Director of Secondary Education will take action under Sub-section (3) of Section 16-D of the Act, either for withdrawing the recognition or for appointment of Authorized Controller and the Board or the Government, as the case may be, will take suitable action according to law as early as possible, keeping in view the next ensuing academic session.

5. In case the Board refuses to closing down of the institution under Regulation 10 of Chapter VII, the Govt. of UP will take necessary steps within a period of two months from the date of decision of the Board, for bringing the teachers and the staff of UP Board Wing within the purview of the Act of 1971 and will also take steps within the same period to take the College in the list of Colleges receiving grant-in-aid and this arrangement shall continue so long as the recognition of the UP Board Wing continues.

6. The Director of Secondary Education and the Government of UP are commanded to ensure in due course that the affairs of the UP Board Wing of the College run in accordance with the Approved Scheme of Administration consistent with the principles enumerated in Third Schedule of the Act of 1921.

7. The Government of UP is further directed to ensure that classes VI, VII and VIII which were running earlier, run further unless closing down of those classes is permitted by it or by the authority competent to do so.

11. The Appellant's committee of management felt aggrieved by this order and, therefore, filed Civil Appeal Nos. 5244, 5245, 5246, 5247, 5248 of 2008 to challenge the said common order. When the Special Leave Petitions leading to these appeals first came up for consideration on 17.12.2004, this Court issued notice and passed an order of status-quo in the following terms:

Status-quo in regard to the services of the teachers shall continue till further orders in terms of direction contained in paragraph 63(1), subject to the condition that the teachers would teach the course as directed by the Petitioner-management.

Other directions of the High Court are stayed.

12. Thereafter, when these Special Leave Petitions came up for further consideration on 14.3.2005, a grievance was made by the Appellant

management that some of the teachers were misusing the order passed by this Court, and were disturbing the conduct of the classes. This allegation was denied by the counsel for the teachers. Thereupon, this Court passed the following order:

On behalf of the Petitioner-Management, with reference to the order dated 17th December, 2004, it is submitted that the teachers have been directed to teach ISCE course but, instead of so doing, they are disturbing the conduct of classes and continue to sit outside the room of the principal and others. It is seriously disputed by learned Counsel representing teachers. By order dated 17th December, 2004, the order of status-quo in regard to the services of the teachers was continued in terms of directions contained in para 63(1) of the impugned judgment, subject to the condition that the teachers would teach their courses as directed by the Petitioner-management. If the teachers, in violation of that order, decline to teach the courses as directed by the Management, they would do so at their own peril.

It has been submitted on behalf of the teachers that without any reservation, they are prepared to teach ISCE course. In order to obviate any dispute at a later stage, let the Management supply to the advocate on record appearing for the teachers the details of the course required to be taught by the teachers and the time table.

13. (i) Subsequently, all these five Special Leave Petitions were admitted and converted into Civil Appeals. The interim order was directed to continue until further orders. Later, the Appellant took out I.A. No. 8/2010 to point out the indiscipline on the part of some of the teachers, and sought modification of the order dated 17.12.2004. This Court declined to modify that order. However, by its order dated 5.7.2010 it granted liberty to the Appellant-management to take disciplinary action against those teachers, if there was any violation as per the statute applicable to them. The consequence of all these orders has been that the interim stay granted by a Single Judge of the High Court on 14.11.2002 against the operation of the letters dated 19.7.2002 and 7.8.2002 is continuing to operate, since all the directions in paragraphs 63(2) to 63(7) in the final judgment have been stayed by this Court. However, it must be noted that this Court has passed the above order subject to the rider that the status-quo with respect to the teachers will continue till further orders. It means that the teachers will continue in this college subject to the condition that they will have to teach the course as directed by the Appellant-management. Thereafter, there has been a grievance that some of the teachers were creating disturbances and the management has been granted liberty to take disciplinary actions, if necessary.

(ii) One more consequence of these proceedings has been that some teachers have contended that the college management is not implementing the interim order dated 17.12.2004 passed by this Court since they were not being given the regular work and were kept in the reserve pool. They filed a Contempt Petition (C) bearing No. 170/2005 which has been directed to be heard with the Civil

Appeals.

(iii) Since all these matters raise questions which are inter connected, all of them are heard and are being disposed of together. C.A Nos. 5249-5250 and 5251-5252 of 2008 are also heard and are being decided together with them.

14. The question which arises in this matter is as to whether the Appellant was entitled to close down the U.P. State Board Section in the manner in which it did, and if not what should be the order, and whether the consequential order of the High Court was justified.

15. The principle submission of the Appellant has been that the Government's earlier letter dated 30.11.1991 granted an implied permission to all those managements which did not seek any grant but wanted a switch-over. The Appellant particularly relied on sub-paragraph (d) thereof. It is submitted that so long as the management is not seeking any grant from the Government, the recognition with the Madhyamik Shiksha Parishad (i.e U.P. State Board) will automatically get cancelled in view of paragraph (d). The moment, the college obtained the affiliation either from the Central Board of Secondary Education, New Delhi or the Council for the Indian School Certificate Examination, nothing further is required to be done. The two letters from the DIOS directing running of the classes VI to VIII were contrary to this direction issued by the Deputy Secretary, U.P. Government and have to be set-aside.

16. As against this, the submission of the State of U.P. has been that a huge portion of land in the prime area of Lucknow city has been leased out to this institution on a nominal rent. It was for running the classes for the U.P. State Board Examination. The Government did not have any objection to the switch over to the ICSE Board provided, however, the classes for the U.P. State Board Examination were also to run simultaneously. The benefits of having the prime land in the city cannot be confined only to the elite section of the society who would prefer go to the ICSE Board where the fees were not regulated by the Government. It cannot be left to the sweet will of the college management to deny its facilities to the other sections of the society who will join the classes for the U.P. State Board Examination with regulated fees. It will also affect the teachers who were teaching the course for the U.P. State Board Examination.

17. Shri Rakesh Dwivedi, Senior Advocate appeared for the Appellant society. Shri Shirish Kumar Misra, learned Advocate appeared for the State of U.P and Shri P.S. Narshima, Senior Advocate appeared for the teachers.

18. There has been some controversy as to whether the Government's NOC dated 26.4.1980 permitting the affiliation to ICSE Board contained a condition that the Appellant should continue to conduct classes of VI, VII and VIII with the State U.P. Board. There has also been a controversy as to whether the State and the teachers would be bound by the alleged concession by the counsel for the State as recorded in the interim order of a single Judge of the High Court dated 14.11.2002 in Writ Petition No. 6415/2002. There is also an allegation against

the management of the Appellant society that its Institution did not have any approved scheme of administration as required by the law, and the appointment of a manager to run the institution was devoid of any legal authority. In our view it will be desirable to deal with the main question raised in this group of appeals rather than to get bogged down into these details.

19. It was submitted on behalf of the Appellants that the Respondents have not objected to the Appellant starting classes which are to be affiliated to the ICSE course. What the State is insisting upon, is that along with the ICSE classes the Appellant ought to run the classes for the U.P. State Board course also. It was therefore, submitted on behalf of the Appellant that the Appellant was required to take this decision basically because they found that the parents of the students had a preference for the ICSE course. ICSE board is also listed as an examining body under the Delhi Education Act, 1973, and as such the U.P. State Board had no objection. What is important is imparting good education to the students and there was nothing wrong in accepting the aspirations of the parents and the students to shift to the ICSE board.

20. In view of the Government's NOC dated 26.4.1980, the management had shifted classes I to v. initially to the ICSE board, and subsequently the higher classes. The Appellant was not receiving any grants from the Government from 1993 onwards. The teachers had to adjust to this change. The learned Counsel for the Appellant informed us that out of twenty two teachers whose services were required to be terminated, eleven had retired, and one teacher had joined another college as a principal, and ten teachers who were taking the U.P. State Board course remained with the institution. The Appellant's college has not been running the U.P. Board classes since the interim order dated 14.11.2002 granted by the High Court which has been continued in view of the stay granted by this Court.

21. Shri Rakesh Dwivedi learned Senior Counsel appearing for the Appellant submitted that the recognition and affiliation with the board is basically for the purpose of the examination conducted by the board, and affiliation to the board is completely voluntary. The board cannot compel the college to continue to be affiliated with it. The Appellants had relied upon the Government order dated 30.11.1991 and particularly para (d) thereof, to submit that once an affiliation with ICSE was obtained, the recognition with the U.P. State Board will get cancelled automatically.

22. The subject of this communication of the Deputy Secretary (Education) of Government of U.P. dated 30.11.1991 was granting of No Objection Certificates to educational institutions in the State for their affiliation to ICSE New Delhi/ Central Board of Secondary Education, New Delhi. The conditions in this behalf laid down in paragraph 4 thereof were as follows:

It has been decided of late that while giving No Objection Certificate to educational institutions, the No Objection Certificate should be issued under

following conditions according to present procedure under general conditions.

(a) Renewal of the registered society of the college will be done from time to time.

(b) There will be member nominated by the Education Director in the Managing Committee of the College.

(c) At least 10 percent seats will be reserved for meritorious children belonging to schedule caste/schedule tribes and fees more than the prescribed fees for various classes will not be charged from them by schools conducted by Madhyamik Shiksha Parishad U.P./Basic Shiksha Parishad.

(d) No grant will be demanded from the State Government by the institution and if the college is already recognized by the Madhyamik Shiksha Parishad but if the college obtains an affiliation from the Central Board of Secondary Education, New Delhi, Council for Indian School Certificate Examination, New Delhi, the recognition of the Parishad and the grant of State Government will automatically get cancelled.

(e) The teaching and non-teaching employees of the institution will not be paid salary and allowances less than the pay-scale and allowances paid to employees of government aide education institutions.

(f) Service Rules of the employees to employees of non-government and aided High Secondary Schools.

(g) Institutions will follow the orders as are issued by the State Government from time to time.

(h) The record of the School/College will be maintained in prescribed forms and registers.

23. This submission of the Appellant was countered on behalf of the State by pointing out that these guidelines of 30.11.1991 will have to be looked into in their totality. Before granting any such disaffiliation, the board is required to consider the interest of the students and the teachers. That apart, regulation 10 framed under the U.P. Intermediate Education Act, 1921, required such application to be furnished one year in advance along with reasons for closure of the institution. The board may permit the closure subject to some appropriate conditions, and transfer of records of the institution to some other institution as the authority may deem fit. This regulation 10 reads as follows:

10. No institution which is recognized by the Board as High School or Intermediate College shall be closed down without prior permission of the Board and unless a written notice by registered post is given to the Secretary of the Board with a copy to the Director at least one year prior to the proposed date of closure, setting forth the reasons for the closure of the institution. The Board may permit the closure of the institution subject to such conditions and transfer of records of the institution to any other institution or authority as it may deem

fit.

24. Shri Dwivedi, submitted that this regulation speaks about closure of the institution, and not shifting of the institution to the course run by some other board. Shri Misra, learned Counsel for the State on the other hand submitted that this shifting in fact amounts to closure of the institution as far as U.P. State Board is concerned, and therefore, the regulation will have to be construed appropriately. Shri Narsimha, learned senior counsel appearing for the teachers supported the submissions on behalf of the State Government. He contended that the teachers who were taking the course of State Board cannot suddenly be asked to take the course of ICSE Board.

25. Shri Dwivedi, then submitted that the right to run an educational institution has been considered as an occupation within the meaning of the expression under Article 19(1) (g) of the Constitution (see para 20 of T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others,). He drew our attention to paragraph 66 of this judgment which is to the following effect:

66. In the case of private unaided educational institutions, the authority granting recognition or affiliation can certainly lay down conditions for the grant of recognition or affiliation; these conditions must pertain broadly to academic and educational matters and welfare of students and teachers ? but how the private unaided institutions are to run is a matter of administration to be taken care of by the management of those institutions.

He submitted that the authority granting recognition or affiliation can lay down conditions which are relevant for academic or educational purpose but not beyond that.

26. The above quoted paragraph 66 of T.M.A. Pai Foundation which has been relied upon by Shri Dwivedi however, permits the authority granting recognition or affiliation to lay down conditions for the grant of recognition or affiliation, and they are expected to be for the welfare of the students and teachers. Shri Dwivedi, relied upon the judgment of a Constitution Bench of this Court in Pathumma and Others Vs. State of Kerala and Others, , to submit that this particular Regulation No. 10 must not be read as an obstructive one or else it would become excessive and would go beyond the requirements of the interest of general public. In paragraph 14 of this judgment this Court had observed:

14. Another test which has been laid down by this Court is that restrictions must not be arbitrary or of an excessive nature so as to go beyond the requirement of the interest of the general public. In the case of Chintaman Rao v. State of Madhya Pradesh* this Court observed as follows:

The phrase 'reasonable restriction' connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word 'reasonable' implies intelligent care and deliberation, that is, the choice of a

course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness and unless it strikes a proper balance between the freedom guaranteed in Article 19(1)(g) and the social control permitted by Clause (6) of Article 19, it must be held to be wanting in that quality.

What is required is that the Legislature takes intelligent care and deliberation in choosing a course which is dictated by reason and good conscience so as to strike a just balance between the freedom contained in Article 19(1) and the social control permitted by Clauses (5) and (6) of Article 19.

* (Chintaman Rao Vs. The State of Madhya Pradesh,)

27. We quite see that the shifting of an institution from the course of one board to another course is not closing down of an institution as such, but at the same time in the context of an affiliation with the State Board it comes to a closing down of the institution. All that Regulation No. 10 requires is that the concerned High School or Intermediate College has to give a written notice one year in advance setting forth the reasons for the closure of the institution. The board may examine them and permit the closure subject to appropriate conditions and transfer of records of the institution to another institution as the occasion may require. This is because the record of the students who were attending the institution earlier is required to be preserved. It is also implicit that the interest of the teachers is also to be taken into consideration, and they are required to be adjusted appropriately. In our view, this provision is by way of a regulation and cannot be read in any way as an arbitrary restriction.

28. We may as well note in this connection that in paragraph 7 of the Additional Affidavit of Shri Mayankeshwar Sharan Singh, Manager of the Appellant's college affirmed on 1.8.2010 in C.A No. 5427/2008 it is stated as follows:

That the college at this stage is ready to start a High School & Intermediate Wing in the college which would be affiliated to the Board of High School and Intermediate Examination, Allahabad. In this High School & Intermediate Wing Classes from 6 to 12 would be re-started in some section of the college building, which is at present available with the Petitioner College. For this purpose a section of existing building would be ear marked for conducting Classes from 6 to 12 under the U.P. Intermediate Education Act.

29. We have noted the submissions of the counsel for the parties. As a matter of fact, the State of U.P. or the U.P. State Board did not have any objection as such to the starting of the ICSE course by the Appellant society. What they were insisting was that the course run by the U.P. State Board also should be run simultaneously. With respect to these submissions of the Respondents it was pointed out by the Appellant that the parents were expressing their preference for the ICSE course, the number of students opting for the State board course in the Appellant's school and college was dwindling, and the Appellant was finding it uneconomical to run both the courses, since from 1993 it was not receiving any

grants from the State Government. In any case the Appellant had expressed willingness to continue the services of the teachers, who were teaching the State Board's Course, and it appears that some of the teachers who were earlier teaching in the State Board Syllabus have been continued in the Appellant institution for ICSE Course. It is also to be noted that though for over seven years the course of the U.P. State Board is not being run by the Appellant institution, it has offered to restart the course once again. In view of this scenario in the facts of the present case, it would be rather academic to go into the controversy which is raised before us. All these proceedings can be disposed of by giving appropriate directions to the U.P. State Board and the Appellants.

30. In view of what is stated above we pass the following order:

(i) The directions contained in paragraph 63 (2), (3), (5) and (6) of the judgment and order of the High Court dated 17.11.2004 are modified, and the U.P. State Board is directed to take a decision within two months from the receipt of this order on Appellant's letter dated 18.1.2002 with respect to their decision to close down the U.P. State Board Wing. The Board will however consider whether Appellant's original request is now altered in view of paragraph 7 of their affidavit dated 1.8.2010 in Civil Appeal No. 5747/2008 to restart the High School and Intermediate wing in some appropriate section of the college building for conducting classes from VI to XII under the U.P. State Board.

(ii) If such a decision to restart the State Board's course is taken, it shall be started from the academic year 2012-13. The State Government will issue necessary grants to this section, and the above-mentioned ten teachers earlier teaching the State Board's Course and continuing to remain with the Appellant society, may be shifted to the classes taking State Board's Course.

(iii) The direction in paragraph 63(1) is confined to the ten teachers presently remaining with the Appellant, though the Appellant society shall at the earliest settle in accordance with law, if not settled so far, all the dues of other teachers who have left the institution, in the meanwhile.

(iv) The direction contained in paragraph 63(4) is no longer required.

(v) The direction contained in paragraph 63(7) is modified, and it is directed that if the U.P. Board accepts that running of the U.P. State Board course is no longer feasible, then, it will be open to the U.P. State Board to issue a direction not to restart that course anymore.

31. This order disposes of all the Civil Appeals as well as the Contempt Petition. There will be no order as to costs.