

(2019) 05 UK CK 0248
In the Uttarakhand High Court
Case No : Writ Petition (PIL) No. 30 Of 2019

Geeta Pandey

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 24-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0248

Hon'ble Judges : Ramesh Ranganathan, CJ; N.S. Dhanik, J

Bench : Division Bench

Advocate : Sandeep Tiwari, B.S. Parihar

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri Sandeep Tiwari, learned counsel for the petitioner and Sri B.S. Parihar, learned Standing Counsel for the State Government and, with their consent, this writ petition is being disposed of at the stage of admission.

2. This writ petition is filed in public interest seeking a writ of certiorari to quash the impugned order dated 15.11.2018 passed by the first respondent; and the consequential order dated 13.03.2019 passed by the fifth respondent in so far as it relates to the merger of the Government Girls High School, Himmatpur Chomwal, Nainital district with the Government Girls Inter College, Dauliya, Nainital district; for a writ of mandamus directing the respondents not to disturb the working of the Government Girls High School, Himmatpur Chomwal, along with the Government Girls Upper Primary School, Himmatpur Chomwal, running in the same building; and for a writ of mandamus directing the respondents to merge the Government Girls High School, Himmatpur Chomwal with the Government Girls Upper Primary School, Himmatpur Chomwal running in the same building for betterment of the children studying in Classes VI to X.

3. There are two schools running in the same building in Himmatpur Chomwal,

Nainital district. While one school is of Classes VI to VIII, the other is of Classes IX to X. At a distance of about 3.5 kilometers away from these schools is located an Intermediate College called the Government Girls Inter College, Dauliya in District Nainital.

4. By the impugned proceedings, the school, wherein Classes IX and X are being conducted, is now sought to be shifted from Himmatpur Chomwal to the Government Girls Inter College, Dauliya, Nainital district. The petitioner's complaint is that, since there would be continuity in education from Classes VI to X, if both the schools are run in the same building, there is no rationale in shifting the school, and clubbing it with the Government Girls Inter College, Dauliya, District Nainital.

5. Sri Sandeep Tiwari, learned counsel for the petitioner, would submit that the strength of students in Classes IX and X was less than 30 when the initial order was passed during the academic year 2017-18; it is on the basis of this order that a proposal was made to shift the college; its strength has subsequently increased to 95 students, which is more than the stipulated students' strength of 30 for a school to be continued at the same location; since a substantial number of these students, are girl children, shifting of the school from Himmatpur Chomwal to Dauliya would result in the students foregoing their education, since the cost of transportation would be around Rs. 40/-per day, besides the children having to travel a distance of seven kilometers every day; while the order to shift the school was passed on 15.11.2018, and the consequential order was passed on 13.03.2019, the school is yet to be shifted in view of the model code of conduct, and it is still continuing to function at Himmatpur Chomwal even as on date.

6. The question regarding where a school should be established, whether it should be merged with the Government Girls Inter College, or should be continued next to the school where students of Classes VI to VIII are being taught, are all matters in the executive realm. While the petitioner may well be justified in her submission that continuing locating the school, wherein students of Classes IX to X are taught, besides the other school wherein Classes VI to VIII are taught, would be beneficial to these young children, the other point of view is that clubbing Classes IX & X with Classes XI and XII (Intermediate) would ensure continuity in education. Where two possible views exist, and one such possible view is taken by the administrative authorities, this Court would not substitute its views, for that of the executive, in this regard.

7. We are impressed, however, with the submission of Sri Sandeep Tiwari, learned counsel for the petitioner, that shifting the school may well result in the girl-children, studying in Classes IX to X, dropping out, as continuing their education in the new location would involve incurring a daily expenditure of more than Rs. 40. Besides, these children would also have to travel a distance of more than seven kilometers each day.

8. Since the endeavour of the State Government is to promote education, more particularly that of a girl child, it is but appropriate that they re-examine the matter in the light of the submission that, when the decision was initially taken to shift the school, the existing strength of students, during the academic year 2017-18, was less than 30; the number of students, now admitted in the academic session 2019-20, is far more; and the present total strength of students is around 95.

9. While we would not in judgment over the decision of the officials in this regard, suffice it to permit the petitioner to make a representation to the authorities concerned. If any such representation is made by the petitioner, within ten days from today, the respondent-authorities shall consider the same, and pass appropriate orders thereupon in accordance with law within three weeks thereafter, after inspecting the school and ascertaining whether the number of students admitted, during the academic session 2019-20, would result in an increase in the total strength of students to 95, far in excess of the minimum stipulated number of students i.e. 30.

10. While taking a decision afresh, the authorities shall also bear in mind the possibility of a substantial number of girl children dropping out of the said school, in case it is shifted from Himmatpur Chomwal, Nainital district to Dauliya. A decision in this regard shall be taken, as aforementioned, within three weeks from the date of receipt of the petitioner's representation, and shall be communicated to the petitioner within the said period. Till a decision is taken afresh, status quo as on today shall be maintained.

11. The writ petition is disposed of accordingly. No costs.