
(2005) 02 KL CK 0089

In the High Court Of Kerala

Case No : Writ Petition (C) No. 1176 of 2005 (M)

Jolrin Jose K.

APPELLANT

Vs

District Educational Officer and Another

RESPONDENT

Date of Decision : 07-02-2005

Acts Referred:

Citation : AIR 2005 Ker 231

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : P.N. Santosh and K.P. Geetha Mani, for the Appellant; M.J. Rajasree, Govt. Pleader (for No. 1) and P.V. Jayachandran, (for No. 2), for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—This writ petition is filed seeking to quash any decision to remove the petitioner from the polls of the School and for a direction to admit him in the class forthwith. A declaration that the action taken by the Headmistress of the school in removing the petitioner from the rolls of the school is illegal, is also sought for. The petitioner seeks a further declaration that he is entitled to continue in the school till the end of the academic year.

2. The petitioner, stated to be 17 years old and represented by his father in this writ petition, was the student of the X standard of the Aided School of which the 2nd respondent is the Headmistress. The writ petition contains certain averments touching certain incidents in which the petitioner appears to be, at least, implicated.

3. A statement was filed on behalf of the first respondent. Notice by special messenger was taken out to the Headmistress, the 2nd respondent. The 2nd respondent, Headmistress has filed a counter affidavit.

4. The statement and the counter-affidavit refer to two incidents.

5. The first one relates to the alleged involvement of the petitioner in an attempt to harm a girl student of Class X. It is stated that the action taken by the

Headmistress in the realm of discipline in relation to the said incident culminated in the petitioner being permitted to continue in the school after obtaining an undertaking that he will not involve in any act of further indisciplined behaviour.

6. The 2nd incident is the one where six male and six female students of Standard X allegedly indulged in sexual activities. Paragraph 7 of the counter affidavit of the Headmistress makes specific reference to such activities and the fact that further action did not pursue, though the incident was grave, since the Headmistress wanted to exclude any harm to the further of the students, which included girls. The involvement in sexual activities by the said students did not result in any penalty being imposed. Para 9 of the counter affidavit specifically states that the petitioner was involved in the incident involving the male and female students as stated above. There is no reason to disbelieve the 2nd respondent.

7. All that apart, the petitioner was continuously absent and accordingly he was removed from the school on 8-11-2004.

8. It appears that the petitioner's father made a complaint, to the District Educational Officer, dated 1-11-2004, which resulted in the issuance of Ext. P2 notice for hearing. It is stated in the counter affidavit of the 2nd respondent, as also in the statement filed on behalf of the first respondent, D.E.O., that the enquiry was duly conducted and the action taken by the 2nd respondent-Headmistress is justified and valid.

9. Going by what is stated above, it can be seen that though the 2nd respondent and on enquiry, the first respondent were satisfied of the actions of the petitioner involving moral turpitude, the approach of the Headmistress had been one of restraint that is duly expected of a person holding the high office of the Headmaster of a school, where adolescents are the pupils. I say so because, in spite of the materials being available, no punishment was imposed in any manner depriving the petitioner of instructions in the school till he was removed, owing to continued absence. This leniency shown by the Headmistress is essentially a matter within the realm of the wisdom of that office. Going by the materials available in the enquiry file, which are perused, including the statement of the District Educational Officer forming part of the files, the restraint exercised by the 2nd respondent-Headmistress from suspending the petitioner from the school or imposing any punishment on him on account of the incidents is noteworthy. Obviously, the Headmistress was treading a path to ensue the possible reformation of the petitioner. In this context, I should notice that going by the Kerala Education Act and Rules, the power of the Headmaster is not much different from what has been conceived from time immemorial. The rules of discipline of every school as are dictated by the authorities of the school, are insulated by the rules in Chapter IX of the K.E.R. The duties of the Headmaster include his/her responsibilities for discipline and supervision. The role of a Headmaster cannot be better said than as has been laid down by a Full Bench of this Court in *Aldo Maria Patroni and Another Vs. E.C. Kesavan and Others*,

wherein the Hon"ble the Chief Justice M. S. Menon said that "the post of Headmaster is of Divotal importance in the file of a school. Around him wheels the tone and temper of the institution; on him depends the continuity of its traditions, the maintenance of discipline and the efficiency of its teaching". The aforesaid needs no support. Yet I quote N. Ammad's case AIR 1999 SC 501 where the Hon"ble Mr. Justice K. T. Thomas speaking on behalf of the Bench said that "the Headmaster is the key post in the running of the school. He is the hub on which all the spokes of the school are set around whom they rotate to generate result. A school is personified through its Headmaster and he is the focal point on which outsiders look at the school". As stated therein, "the functional efficacy of a school very much depends upon the efficiency and dedication of its Headmaster. This prestine precept remains unchanged despite many changes taking place in the structural patterns of education over the years". To the same effect are the views expressed in Nine Judges Bench in the Ahmedabad, The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat and Another, , by the Hon"ble Mr. Justice K. K. Mathew that "It is upon the principal and teachers of a college that the tone and temper of an educational institution depend. On them would depend its reputation, the maintenance of discipline and its efficiency in teaching."

10. I refer to the aforesaid precedents only to show that the role of the Headmaster and the action taken by the Headmaster cannot be lightly considered or interfered with, except in exceptional circumstances on grounds of mala fides, arbitrariness or perversity.

11. In this case, the student was removed by taking note of his precedents. But, however, making the removal only on account of his continued absence in the school. This means that any blemish that would have accompanied a removal on account of immoral behaviour has been graciously and benevolently excluded by the Headmistress. The Rules provide for removal on account of continued absence. The fact that the petitioner had been continuously absent has been averred in the counter affidavit of the second respondent. It is to be only believed. There is no material to conclude to the contrary. I am of the considered view that the power in relation to discipline has been most appropriately exercised by the Headmistress. The action taken stands approved by the higher authority also. I do not find any ground to interfere.

12. In the reply affidavit sworn to by the father of the petitioner, after repeating his accusations against the Headmistress of attempting to secure 100% results in the school, in para 6 of the reply affidavit, he has averred that "the intention should be to correct the erring student and not to punish him" and that "it shall not result in making a student a culprit in the society". Reformation becomes necessary in the absence of proper upbringing. Parenting ought to be proper. The lap of the mother is the first school, the father controls the child and the teacher leads him. In such a progression, the least harm has been done in the instant case by the action taken by the Headmistress. In fact, as stated above, the

Headmistress had been extremely careful that the petitioner does not get his conduct certified. The removal is only attributed to the continued absence.

13. Be that as it may, in the event of the petitioner applying for condonation of absence, if entitled to do so as per Rules, or in relaxation thereof, by the competent authority, the same will be considered on condition that he tenders apology to the Headmistress for his absence and wrongs, in such manner as may be dictated by her on his request, if any. This indulgence by this Court, in writ jurisdiction, is only to provide a further opportunity for the petitioner to repent and reform before it is too late, and thereby save him, who is already 17 years old, from losing another academic year to sit for the S.S.L.C. Examination.

This writ petition is disposed of accordingly.