

(2020) 09 DEL CK 0035

In the Delhi High Court

Case No : Civil Writ Petition No. 4402 Of 2020, Civil Miscellaneous Application
No. 15848, 15849, 15850 Of 2020

Master Vipul Yadav And Anr

APPELLANT

Vs

Richmond Global School And Ors

RESPONDENT

Date of Decision : 08-09-2020

Acts Referred:

Citation : (2020) 09 DEL CK 0035

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Khagesh B. Jha, Shikha Sharma Bagga, Apoorva Pandey, Santosh Kumar Tripathi

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. The hearing has been held through video conferencing.

2. The present petition has been filed by two Petitioners i.e. Master Vipul Yadav and Yashika Yadav, both children of Mr. Vipin Yadav, against Richmond Global School (hereinafter, "School"), the Trust which runs the same as also the government and other authorities. The case of the Petitioners is that their access to the online portal of the School was blocked, on the ground of non-payment of fee and despite repeated emails being written, this access was not being granted. Thus, the Petitioners were not able to join the online classes which were being held. This petition was first listed on 21st July 2020 on which date, this Court had passed the following interim order:

"...

6. In view of the fact that the online classes are continuously being held by the School and the Petitioners are students of class 5 and class 7, if they are not allowed to attend classes the injury will be irreparable. The stand of the

Petitioners is that without any notice to them the access to the portal was blocked. Prima facie, this Court is of the opinion that the careers of children is paramount and since Ld. Counsel for the Petitioners submits that they are willing to deposit the fees payable as per the Circular of the Government, it is directed as under:

- i) Upon service of this order, access to the School portal shall immediately be given to the Petitioners so that they can attend the online classes;
- ii) In terms of the circular dated 18th April, 2020, the School shall intimate the Petitioners as to how much fee is payable up to date within a period of one week;
- iii) Upon receipt of the said information, the Petitioners shall deposit the fee in the School within one week thereafter. During this entire period, access to online classes shall not be stopped to the Petitioners;
- iv) The Petitioners shall be permitted to participate in all the activities of the School which are being conducted through virtual/online classes without any hindrance whatsoever."

3. Thereafter, the said order was served upon the School. However, due to non-compliance of the same, the Petitioners moved a contempt petition, being Cont. Case No.379/2020. In the said contempt petition, the Court heard the parties and vide order dated 7th August 2020, directed as under:

"...

7. It is submitted that as of 2nd August, 2020, both students have been given the link for their online classes and other activities. The outstanding fees has also been communicated to the Petitioners and the same has in fact been deposited as of yesterday.

8. After hearing the submissions of the parties, there appears to be a clear lapse by the School in not accessing their e-mails during this entire period and not complying with the order passed by this Court. However, since the Principal has suffered a personal tragedy, the contempt against the Principal and the Chairman is discharged. Further considering that the Petitioners were forced to litigate, initially by filing a writ petition and thereafter a contempt petition, the School shall waive one months' tuition fee of the Petitioners.

9. If the students have missed any examinations or class tests, etc. the School shall make appropriate arrangements for the students to take re-examinations or re-tests so that they do not suffer in any manner. All the course material as supplied to other students shall also be supplied to the Petitioners within a period of one week.

10. The contempt petition is disposed of with the above directions. All pending applications are also disposed of."

4. Today, the main writ petition is listed. The School has filed a counter affidavit

submitting that the petition stands satisfied, as the Petitioners have paid the fee and the children have been allowed to join the online classes. The case of the School is that the intention of the Petitioners was to defame, derogate and humiliate the School in the eyes of the society. Without going into the allegations made by the School and the tone and tenor of the counter affidavit against the Petitioner, since the Petitioners have deposited the fee and have been provided online access to all classes, in effect, this writ petition stands satisfied. Ms. Pandey, Id. counsel appearing for the School submits that she apologizes for the language used in the counter affidavit against the Petitioners. Insofar as paragraph 9 of the order dated 7th August 2020 is concerned, if there are examinations or re-tests that are to be conducted for the Petitioners, the same shall be done and they shall not be marked absent in the same. If any grievance remains in respect of the said order dated 7th August, 2020, the Petitioners' remedies are left open.

5. Mr. Jha, Id. Counsel for the Petitioners submits that the School is guilty of charging an exorbitant fee, beyond the permissible amount. In respect of this, a representation is stated to have been made by the Petitioners. The Respondent No.3, Directorate of Education, is directed to consider the said representation and to take timely action in accordance with law, if the allegations are found to be correct.

6. Ms. Pandey submits that the course material has already been provided to the Petitioners, like other students. Mr. Jha disputes this position and submits that the access to the old course material is not available on the portal. If there is any course material, which has not been provided, an email shall be addressed by the Petitioners to the School and upon receipt of this email, the course material shall be provided to the Petitioner, within 5 days. Needless to add that the school fees shall be deposited regularly for both the Petitioners.

7. The petition is disposed of accordingly. All pending applications are also disposed of.