
(2012) 12 OHC CK 0002

In the Orissa High Court

Case No : Writ Petition (C) No. 14739 of 2009

Niranjan Mishra and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 19-12-2012

Acts Referred:

Citation : (2013) 115 CLT 668 : (2013) 1 OLR 441

Hon'ble Judges : Sanju Panda, J

Bench : Single Bench

Advocate : Subash Chandra Puspalka, K. Satpathy and K. Mohanty, for the Appellant; Ashok Kumar Mohanty Hrusikesh Tripathy, P.K. Mohanty and P.K. Sahu, for the Respondent

Final Decision : Allowed

Judgement

Sanju Panda, J.—In this writ petition, the petitioners challenge the notice dated 14.09.2009 issued by the Principal, Kendriya Vidyalaya No. 4, Niladri Vihar, Bhubaneswar opposite party No. 4 enhancing its tuition fees and other fees. The facts leading to the present writ petition are that the guardians of the students of Kendriya Vidyalaya, No. 4, Niladri Vihar, Bhubaneswar are the petitioners in this writ petition. It is averred in the writ petition that the School was opened in the year 2003 starting from Class-I to Class-VII. The Commissioner, Kendriya Vidyalaya Sangathan provided the teaching and non-teaching staffs of the school, who were recruited through proper recruitment procedure. Class VIII was opened in the year 2005. Thereafter, Class-IX and Class-X-were opened in the year 2006 and 2007 respectively. At present, the total student strength of the school is about 520. No tuition fee is charged from the students of Class-I to Class-VIII and for the Girl students of Class-IX and Class-X also. Prescribed tuition fee of Rs. 40/- per month was being collected quarterly from the Boy students of Class-IX and Class-X so also Rs. 20/- towards computer fee starting from the students of Class-III and Rs. 160/- towards Vidyalaya Vikash Nidhi (VVN) contribution starting from the students of Class-I are being collected.

While the matter stood thus, the impugned notice was issued basing upon revision of fee structure by the Kendriya Vidyalaya, New Delhi with effect from 1.10.2009. As per the new fee structure, computer fee was enhanced from Rs. 20/- to Rs. 50/- tuition fee from Rs. 40 to Rs. 200 and Vidyalaya Vikash Nidhi (in short VVN) contribution was enhanced from Rs. 160/- to Rs. 240/-with the stipulation that the revised fee will be collected prospectively.

2. Learned counsel for the petitioners submits that the School is an organization under the Ministry of Human Resources Development of the Central Government. The aim and object of the Department is to develop the Human Resources in order to educate the citizen and as such nominal fee was charged from the Boy students of Class-IX and Class-X. It is further submitted that without any rhyme or reason, the tuition fee as well as Vidyalaya Vikash Nidhi (VVN) contribution was enhanced illegally and arbitrarily, even though Central Government is providing all the infrastructure facilities of the School and that major expenditures are being borne by the Central Government. The tuition fee of the kids of the Central Government Employees, who are prosecuting their study, is being reimbursed by the Central Government also. Accordingly, learned counsel for the petitioners submits that since the school is running by the Central Government under the Human Resources Development Department, the impugned notice is liable to be struck down.

3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Bhubaneswar-Opposite party No. 3 filed counter affidavit on behalf of all the opposite parties taking a stand that all the policy decisions are taken by the Board of Governors of the Sangathan headed by the Human Resources Development, Ministry of Government of India and as such the fee structures and its enhancement also decided by the said Board of Governors. The integrated Finance Division of the Human Resources Development headed by the HRD Minister of Government of India observed that Kendriya Vidyalaya Sangathan was enhanced the fee structures in view of the substantial increase in re-imbursement of Tuition fee and Vidyalaya Vikash Nidhi (VVN) contribution under the heading of Child Education Assistance, which increases the revenue of Kendriya Vidyalaya Sangathan and the Human Resources Development Department also share the expenditure of the Kendriya Vidyalaya Sangathan. Accordingly, the Board of Governors approved the revised fee structure in its 84th Meeting, which was held on 29th July, 2009. The Kendriya Vidyalayas are set up in the civil and defence sectors to meet the needs of children to cater to the educational needs of the children of transferable Central Government employees and there is provision-for exemption of fees from physically disabled students, single girl child of parent from Class-VI onwards and for the children of the parent who are living below poverty line (i.e. whose income from all the sources is less than Rs. 3,500/- per month) and since the Board of Governors have taken the decision and revised the aforesaid fees, which are just and proper, there is no merit in the writ petition. In support of his contention, Mr. Ashok Mohanty learned Senior Advocate submitted that Kendriya Vikash Sangathan is an autonomous body set

up by the Ministry of Human Resources Development Department, Government of India to establish, administer and manage the Kendriya Vidyalayas, as per Articles order, 118, 119, 120 and 121 of the Education Code for Kendriya Vidyalayas and the same are relevant for admission fee, tuition fee, computer fee etc. The Finance Committee of the Education Code for Kendriya Vidyalayas has examined all these matters and as per the satisfaction of the said Committee, the fees have been revised and it is within their domain. Therefore, the impugned notice need not be interfered with.

4. Taking into consideration, the rival stands taken by the petitioners as well as the opposite parties and after going through the Education Code for Kendriya Vidyalayas, it appears that Kendriya Vidyalaya Sangathan is working under the Ministry of Human Resource Development, Government of India with its Headquarters at New Delhi, Regional Offices to manage a cluster of schools and Kendriya Vidyalayas spread all over the country and abroad. Kendriya Vidyalaya Sangathan is functioning through its General Body called the Sangathan, its Board of Governors and three Standing Committees constituted by the Board viz., the Finance Committee, the Academic Advisory Committee and the Works Committee. The Minister of Human Resource Development, in-charge of the Kendriya Vidyalaya Sangathan, is the ex officio Chairman of the Sangathan. The Minister of State in the Ministry of Human Resource Development shall be the Deputy Chairman and an officer of the Ministry of Human Resource Development notified by the Government of India for this purpose shall be the Vice-Chairman. The Financial Adviser to the Ministry of HRD shall be the Finance Member of the Sangathan. The other members of the General Body of the Sangathan shall be appointed by the Government of India as per Rule 3 of the memorandum of Association and Rules. Joint Commissioner (Admn.) shall be the ex officio Secretary of the Sangathan.

5. In view of the above, it is crystal clear that the Kendriya Vidyalaya Sangathan is controlled and functioned under the Central Government. The Central Government being the controlling authority should not have collected money from the students of Class-I to Class-XII for promotion of education/computer under the heading of Bidyalaya Vikash Nidhi. Being a welfare State, it is the duty of the Government to provide education with advance technology to promote its citizen so also the children of the country with international standard and to provide all facilities to the children, who are being educated in Kendriya Vidyalayas with all advance instruments and it should not have collected the money from the children or from the parents of the students. Right of Children to Free and Compulsory Education Act, 2009 was incorporated in the Constitution of India as per (86th Amendment) Act, 2002 which runs as follows:

The State shall provide free and compulsory education to all children of the age six to fourteen years in such as a way as the State may, by law, determine.

After such amendment was incorporated in the Constitution in 2009, the same was communicated to provide education to all the children and these rights being

fundamental rights of the children, the Sangathan should not have collected money in the guise of Vidyalaya Vikash Nidhi contribution from all the students which was being made compulsory under Article 119 of the Education Code for Kendriya Vidyalayas. The said Article is violative of the fundamental rights of the children to free and compulsory education and Article 120 regarding Computer fee which is made compulsory for the students from Class-VI onwards Kendriya Vidyalaya Sangathan being controlled and functioned under the Central Government, it should not have enhanced the fee under those two articles, rather it should have taken a nominal fee. Accordingly, the notice dated 14.09.2009 issued vide Annexure-2 directing the parents of the students of Kendriya Vidyalaya, No. 4, Bhubaneswar to pay Computer fee and Vidyalaya Vikash Nidhi contribution at the enhanced rate from the month of October, 2009 onwards is quashed as the same is illegal and unconstitutional. The opposite parties are directed to refund the amount if collected at the enhanced rate forthwith.

Accordingly, the writ petition is allowed. No cost.