
(2007) 02 AHC CK 0207
In the Allahabad High Court

Parents-Teachers Association, Adarsh Gramya Inter College
and Virendra Kumar

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 22-02-2007

Acts Referred:

Constitution of India, 1950 — Article 15, 29

Citation : (2007) 2 AWC 1355 : (2007) 3 UPLBEC 78

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Arun Tandon, J.—Heard learned Counsel for the parties.

2. The admission of girls students in the Boys' institutions, which are situated in rural areas throughout the State of Uttar Pradesh, has been prohibited by the State-respondents with reference to Regulation-11 (t) of Chapter-VII of the Regulations framed under the UP. Intermediate Education Act, 1921. The relevant clause reads as follows:

11 (t) Parishad dwara sanstha ko jin abhyarthiyon ke pathan, paathan ke liye manyata pradan ki gayee hai, sanstha meyn ushi prakar ke abhyarthiyon ka pravesha/adhyapan karayajayega arthat balak ke mop meyn manyata prapt vidyalayon meyn balak tatha balika ke roop meyn manvata prapt vidyalaya meyn balika abhavarthi hi adhvan ke patra hongey.

3. The restriction so imposed is being challenged on two grounds:

(a) Any provision, which prohibits the girls students being admitted in boys institution is hit by Article 15 of the Constitution of India. Article 15(3) prohibits the State from discriminating on the ground of sex, therefore, there cannot be any restrictions upon the admission of girls students in boys institution.

(b) Even otherwise, Clause-11 (t) provides that girls students can be admitted in

boys" institutions situate in rural areas where there are no girls institutions in the local area. It has further been provided that if in the girls institution situate in local area and if the subjects in which the girl students seeks admission is not being taught, she can be admitted in a boys institution situate in the local area situate nearby. It is therefore, submitted that there is no absolute prohibition in admission of girls students in institution established for boys students.

4. Learned Standing Counsel on the other hand with reference to Clause-11 (t) supports the ban imposed.

5. I have heard learned Counsel for the parties and have gone through the records of the present writ petition.

6. Article 15 of the Constitution of India reads as follows:

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.-(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

[(4) Nothing in this article or in Clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.]

7. Thus, Article 15 prohibits discrimination on the ground of sex, however, Article 15(3) permits the State Government to make/frame special provisions in favour of female.

8. In view of the aforesaid, there can be no discrimination against the female candidate only on the ground of sex, including the admissions in institutions.

9. At this stage it may be clarified that so far as the institution where only admission to female students is to be granted, no boy students may be allowed to be admitted inasmuch as Article 15(3) permits the State Government to make special provisions for women and children.

10. In such circumstances, Clause-11 (t) has to be read down so as to protect is

from being struck down as hit by Article 15 of the Constitution of India. It is, therefore, provided that restriction under Clause 11 (t) will apply only in respect of Boys' students being admitted in girls institution. This Court may also record that the District Inspector of Schools while refusing to register the girls students in the petitioner's institution, has not appreciated the proviso to Clause-11 (t), which permits the admission of girls institution in boys institution in special circumstances and no finding in that regard has been recorded.

11. On behalf of the petitioner it has been stated that the condition mentioned in Clause-11 (t) stands satisfied in their favour, to which no reply could be submitted. The order passed by the District Inspector of Schools refusing to issue registration forms in favour of petitioners' institution is hereby quashed.

12. Let the District Inspector of Schools take all necessary steps, preferably within one month for ensuring that the students of petitioners' institution are registered in accordance with Regulation-3 of Chapter-XII of the regulations framed under the U.P. Intermediate Education Act.

13. It is further provided that the late fee which the petitioners' institution has been required to deposit must also be refunded to the institutions within one month.

14. The present writ petition is allowed subject to the observations made herein above.