

(1996) 11 KL CK 0016
In the High Court Of Kerala
Case No : O.P. No. 10046 of 1996 U.

Sathyavan Kottarakkara and Another	APPELLANT
Vs	
State of Kerala and Others	RESPONDENT

Date of Decision : 08-11-1996

Acts Referred:

Constitution of India, 1950 — Article 21, 39, 41, 45, 46
Kerala Education Rules, 1959 — Rule 6

Citation : AIR 1997 Ker 133

Hon'ble Judges : K.S. Radhakrishnan, J

Bench : Single Bench

Advocate : Tony George Kannanthanam and K. George Varghese
Kannanthanam, for the Appellant; Mathe Abraham, C.K. Sajeew and C.P. Regi,
General, Jayakumar, Govt. Pleader and Jose Pallatkar, for the Respondent

Judgement

K.S. Radhakrishnan, J.—A question of considerable public importance arises for consideration in this case. Even though there is hue and cry all over, and Academicians, Educationists, Administrators and grown up politicians have all voiced their concern to eradicate political intervention in Schools and Colleges, there has been little effort to find out any concrete solution to do away with campus violence in Schools and Colleges. Students are unfortunately drawn into politics by political parties as well as certain others, completely disrupting the educational system. At times, it creates an atmosphere of tension, lawlessness in School and College campuses, and sometimes even in class rooms. Violence has grown to such an extent of snatching away the lives of innocent students, who come for studies in Schools or Colleges. Many of the students in Govt. Schools and Colleges are from weaker sections of the society.

DIRECTIVE PRINCIPLES OF STATE POLICY, FUNDAMENTAL RIGHT AND EDUCATION:

2. Right to education has always been treated as a fundamental right by the Supreme Court. Right to uninterrupted education is also a fundamental right,

which is implicit in the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Right to education has been treated as one of transcendent importance. It has a fundamental significance to the life of individual and the society at large. Directive Principles of State Policy are contained in Part IV of the Constitution of India. It shall be the duty of the State both in the matter of policies as well as in making laws to follow those directives. Article 41 postulates that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, right to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want. Article 45 postulates the State shall endeavour to provide, within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of fourteen years. Article 46 postulates that the State shall promote with special care the education and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. Article 39 lays down certain principles of policy to be followed by the State. It provides, State shall in particular direct its policy towards acquiring:

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(e) that the health and strength of workers, men and women, and the tender age of children, are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

3. As held by the Supreme Court in *His Holiness Kesavananda Bharati Sripadagalvaru Vs. State of Kerala*, , fundamental rights "and directive principles constitute the "conscience" of our Constitution. The purpose of fundamental rights is to create an egalitarian society, to free all citizens from coercion or restriction by society and to make liberty available for all. The purpose of the Directive Principles is to fix certain social and economic goals for immediate attainment by bringing about a non-violent social revolution. Through such a social revolution the Constitution seeks to fulfil the basic needs of the common man and to change the structure of our society. It aims at making the Indian masses free in the positive sense. Without faithfully implementing the Directive Principles it is not possible to achieve the Welfare of State contemplated by the Constitution.

4. As held by the Supreme Court in *State of Kerala and Another Vs. N.M. Thomas and Others*, , there is complete unanimity of judicial opinion of the Supreme Court that the Directive Principles and fundamental rights should be construed in harmony with each other and every attempt should be made by the Court to resolve apparent inconsistency. Supreme Court also noticed in *Pathumma and*

Others Vs. State of Kerala and Others, , that the purpose of the Directive Principles is to fix certain socio-economic goals for immediate attainment by bringing about a non-violent social revolution. Our Constitution aims at bringing about synthesis between fundamental rights and the Directive Principles of State Policy by giving to the former a place of pride and to the latter a place of permanence. In view of the principles adumbrated by the Supreme Court, it is clear that the Directive Principles form the fundamental feature and the social conscience of the Constitution, and the Constitution enjoins upon the State to implement these directive principles. The directives, thus provide the policy, the guidelines and the end of socio-economic freedom of Articles 14 and 16 of the Constitution and the means to implement the policy to achieve the ends sought to be promoted by the directive principles.

5. Supreme Court in *Bandhua Mukti Morcha Vs. Union of India (UOI) and Others*, held that it is the fundamental right of everyone in this country, assured under the interpretation given to Article 21 by the Supreme Court, to live with human dignity, "free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life and breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 of the Constitution and Articles 41 and 42 and at the least therefore it must include protection of the health and strength of workers men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom, dignity, educational facilities and just and humane conditions of work. These are minimum requirements which must exist in order to enable a person to live with human dignity and no State -- neither the Central Government nor any State Government --has the right to take any action which will deprive a person of the enjoyment of these basic essentials.

6. Supreme Court also held in *Asiad Construction Workers" case*, 1982 SC 1473 that State is under a constitutional obligation to see that there is no violation of the fundamental right of any person particularly when he belongs to the weaker sections of the community and is unable to wage a legal battle against a strong and, powerful opponent who is exploiting him.

7. Supreme Court also in *Jacob M. Puthuparambil and others Vs. Kerala Water Authority and others*, held that Directive Principles of State Policy reflect the hopes and aspirations of the people. Principles laid down therein are fundamental in the governance to the country and the State is under obligation to apply them in making laws.

8. Supreme Court also emphasised in that right to education implicit in the right to life and personal liberty qualified under Article 21 of the Constitution of India must be considered in the light of the Directive Principles of State Policy enshrined in Part IV of the Constitution.

9. Article 39 refers to certain Directive Principles of State Policy mentioned in Part IV of the Constitution. Clause (f) of Article 39 was supported to be

substituted by Constitution (Forty-second Amendment) Act, 1976. One of the objectives of Clause (e) of Article 39 is that the State should in particular direct its policy towards securing that tender age of children are not abused and are forced by economic necessity to enter avocations unsuited to their age or strength. One of the objectives under Clause (f) of Article 39 is that the the State shall direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and "material abandonment. These objective reflect the great anxiety of the Constitution makers to protect and safeguard the interests and welfare of the children of our country.

CHILDREN AND THEIR WELFARE

10. Government of India, in pursuance of these constitutional provisions of clauses (e) and (f) of Article 39 evolved a national policy for the welfare of the children. In a civilized society the importance of a Child Welfare cannot be over-emphasised because the welfare of the entire community, its growth and development, depend on the health and well-being of its children. Children are a "supremely important national asset" and the future well-being of the nation depends on how its children grow and develop. Children need special protection because of their tender age and physique, mental immaturity and incapacity to look after themselves. There is a growing realisation in every part of the globe that children must be brought up in an atmosphere of love and affection and under the tender care and attention, so that they may be able to attain full emotional, intellectual and spiritual stability and maturity and acquire self-confidence and self-respect and a balance view of life with full appreciation and realisation of the role which they have to play in the nation-building process without which the nation cannot develop and attain real prosperity because a large segment of the society would then be left out of the developmental process. In India this consciousness is reflected in the provisions enacted in the Constitution.

11. Government of India has also in pursuance of these constitutional provisions evolved a national policy for the welfare of children. This policy starts with a goal-oriented preambulatory introduction:

"The Nation"s children are a supremely important asset. Their nature and solicitude are our responsibility. Children"s programme should find a prominent part in our National plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally health, endowed with skills and motivations, needed by society. Equal opportunities for development to" all children during the period of growth should be our aim, for this would serve our larger purpose of reduci inequality and ensuring social justice."

12. National Policy also sets out the measures which the Government of India

proposed to adopt towards attainment of the objectives set out in the preambulatory introduction and they include measures designed to protect children against neglect, cruelty and exploitation and to strengthen family ties so that full potentialities of growth of children are realised within the normal family neighbourhood and community environment.

13. There has been equally great concern for the welfare of the children at the international level culminating in the Declaration of the Rights of the child adopted by the General Assembly of the United Nations. The Declaration in its Preamble points out that the child by reason of his physical and mental immaturity needs special safeguards and care including appropriate legal protection, before as well as after birth and that mankind owes to the child the best it has to give and proceeds to formulate several principles. It provided, the child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of law for this purpose, the best interests of the child shall be the paramount consideration. Child shall also be protected against all forms of neglect, cruelty and exploitation.

14. Above mentioned policy has been adopted by the Supreme Court in Vishal Jeet Vs. Union of India and others, , when children were sexually exploited. In the said decision, Supreme Court gave certain directions to the Central Government and State Government to stem the divastating malady.

15. Therefore any exploitation of children in any form which has a tendency to exploit them either physically, mentally or otherwise is objectionable. Any attempt in this direction so as to exploit children should be put an end to, to achieve the goal enshrined by our constitution makers, which are reflected in various provisions of the Constitution, particularly Articles 21 39 41 45 and 46. Therefore it must be held that the right to education uninterrupted by any outside forces, political or otherwise, is a fundamental right guaranteed under Article 21 read with Articles 39 41 45 and 46 of the Constitution, which will make the life more meaningful and purposeful. Therefore we have to view the present scenario in the Schools and Colleges in the light of the above mentioned constitutional provisions.

16. This writ petition has been moved by Vidyabhyasa Suraksha Samithi. Members of the Samithi and its Advisory Committee are men of eminence in various walks of life. Anxiety expressed by them about the growing politicisation of School or College campus cannot be lost sight of. They are concerned with the growing violence in the school or college campus resulting in loss of life of innocent young children. They have been making several representations before the various authorities. They have approached this Court on an earlier occasion and filed O.P. No. 6833 of 1991. Writ petition was disposed of by this Court observing as follows;

"None can deny that school campuses should be healthy, clean and must provide the right atmosphere for the students on whom rest the future of the country. It is no use to shut our eyes to the problems the petitioners have projected in this petition. Politicisation of school campuses is generally undesirable as it has the potential to breed violence among school children. As future citizens of the land, they must sure be exposed to the principles and practice of democracy and the Parlimentary system of Government. Elections to and the conduct of school Parliaments are meant to give them such an opportunity. But, then the authorities and those involved in the management of schools seem to forget the spirit behind Rule 10(5) of Chapter VIII of the Kerala Education Rules. The elections are now held on party lines. What we now see are micro-general elections which ill-fit the academic atmosphere in school campuses."

17. Director of Public Instruction later issued a circular dated 16-11-1995 after consultation with various organisations. It was felt that in several schools, election to school Parliament was disrupted by persons who influence the students from outside which has adversely affected the smooth functioning of the schools. It was, therefore, decided that if the Parent Teachers Association takes a decision that election to schools Parliament should not be conducted, those schools should be exempted from election. However, for the said purpose a resolution has to be passed by the Parent Teachers Association before 30 days of the date fixed for school Parliament election. This circular was later given a go-by, by the Director of Public Instruction as is evident from the counter-affidavit filed by them. Stand of the Government, as well as that of the Director of Public Instruction is that election to school Parliament be conducted dehors whatever resolution passed by th Parent Teachers Association, since election to School Parliament is statutorily provided under the Kerala Education Rules.

ELECTION IN SCHOOLS

18. According to Rules, every school should follow the curriculum of studies issued by the Director with the sanction of the Government. Rule 10 of Chapter VIII of the Rules reads thus:

"Extra-curricular activities:-- Extra-curricular activities should form an integral part of education imparted in the school and the Headmaster and all the teachers should devote a definite time to such activities. The following are some of the extracurricular activities which should be organised in schools.-

(v) (a) To foster cordiality esprit-de-corps and High social consciousness among the students, there may be in every school, a School Parliament in accordance with the scheme issued by the Director which shall be the common platform of all students and may encourage sport cultural and educational activities by organisation games, a tournaments, discussions, symposia, sramadan etc.

(b) for the better and efficient functioning of the Parliament the teachers shall render all possible assistance and the Headmaster may be the Patron of the same."

19. Petitioners submit that while conducting election to school Parliament there are incidents of constant interference from various political parties, their students wing as well as from outsiders, which disrupted the peaceful atmosphere of the school campus as well as the studies of the children. Instances are many where lives of innocent children are lost.

20. Election to school Parliament aims at fostering cordiality esprit-de-corps and high social consciousness among the students so that that may encourage sports sports, cultural, and educational activities of students by organising games, tournaments, discussions, symposia, sramadan, etc. In other words, children in schools have no role to play in politics. Aim of election to school Parliament is to encourage sports, cultural and educational activities of students by organising games, tournaments, discussions, symposia, sramadan, etc.

21. It has been categorically stated in the counter-affidavit filed by the second respondent, and also assured by learned Government Pleader appearing for the State, that elections to school Parliament, have never been, and never are, conducted on political lines based on political party divisions. Elections are conducted on a class-wise basis to elect class representatives who in turn elect the school leaders and convenors. It was also assured in the counter-affidavit filed by the Director of Public Instruction that politics and political interference do not form part of school elections. It is stated elections to school Parliament are not politicised or not even on the basis of political divisions. It was assured any probable abuse or misuse of the system by outsiders will very well be prevented by regulatory safeguards and the authorities have taken steps to prevent any misshap. It was pointed out any interference from outsiders will be prevented effectively for the smooth functioning of the scheme. Prohibiting entry of outsiders and closely watching the student community and the impression that all illegal and criminal offences will be reported to police authorities would deter the students from creating unrest and thus a peaceful atmosphere could be created for the smooth conduct of election to school Parliament. Therefore, it is evident from the stand of the State as well as Director of Public Instruction that election to school Parliament will be conducted not on political lines based on political party divisions. This assurance given by the Director and State would remove the fear voiced by persons like the petitioners.

22. It is, however, worthwhile to examine various provisions of the Kerala Education Rules and the power vested on the Headmaster and teachers to meet any such contingency, if it arises, especially in the light of the constitutional mandate enshrined in Article 21 read with Articles 39 41 45 and 46.

DUTIES AND OBLIGATIONS OF STUDENTS

23. As per Chapter IX of the Kerala Education Rules, every pupil shall attend the class punctually. Students, and members of the staff should assemble before the classes begin and sing National Anthem standing. Every pupil shall respectfully greet the teachers on meeting them in the school premises for the first time

every day. On the teacher entering the class room, the pupils shall rise and remain standing "till they are desired to sit or till the teacher takes his seat. No pupil shall leave his class room during working hours without the permission of the teacher. No pupil shall use tobacco or any intoxicant in any form in the schools and in the school premises. In order to promote discipline, personal contact between teachers and pupils should be strengthened, self-government in the form of house system with prefects or monitors and student-councils whose responsibility will be to draw up a code of conduct and enforce its observance, should be encouraged in all schools. Any pupil who is deliberately insubordinate or mischievous or guilty of fraud or malpractice in connection with examination or who is found guilty of any other offence under the rules or who by his proved conduct is in the opinion of the Headmaster likely to cause an unwholesome influence on other pupils may be according to the degree of offence, censured, suspended. or dismissed by the Headmaster. All the students are bound to comply with the directions issued by the Headmaster and other teachers concerned while they continue as students of the school. No students has got any right to disrupt the studies of other students. Since teachers and staff are statutorily prevented from having any political activity in the school campus the same should be model to the students as well.

DUTIES, AND OBLIGATIONS OF HEADMASTER, TEACHERS AND STAFF

24. Rule 9 of Chapter VIII deals with moral instruction. It should form definite programme in every school. It should be impressed upon the pupils that the components of a high character are truthfulness, and non-violence in thought, word and deed, fearlessness self-control and selflessness, respect to superiors and reverence to elders, tenderness to animals and compassion for the poor, humility and diligence, love of one's country and pride in her past and faith in her future, saluting the National Flag and singing the National Anthem and habits of order and punctuality. Teachers should set the example of a high character before the eyes of the pupils under them and realise the great responsibility which rests upon them in regard to the moral training of those committed to their charge. Chapter IX of the Rules deals with discipline,

25. Kerala Education Rules, 1959 and the Kerala Government Servants Conduct Rules, 1960 provide for conduct rules for teachers and Government servants in the matter of political activities. Rule 58 of Chapter XIV(C) of the K.E.R. No teacher shall engage himself in any strike or incitement thereto or in any similar activities. Concerted or organised refusal on the part of the teachers to receive their pay will entail severe disciplinary action. Rule 23 of Chapter XIV(B) of K.E.R. provides that no teacher shall engage himself in any kind of activity prejudicing normal functioning of the school. Rule 14 provides no teacher shall except with the previous sanction of the Director own wholly or conduct or participate in the editing or management of any newspaper or other periodical publication. Such sanction will be given only in the case of newspapers or publications mainly devoted to the discussion of topics not of a political character

such for instance as art, science, or literature. Rule 51 of Chapter XIV(C) of the K.E.R. prescribes that association shall not seek the assistance of any political party or organisation to represent the grievance of its members, or indulge in any seditious propaganda, or expression of disloyal sentiments. Association is specifically prohibited from engaging in any political activity. There is also prohibition to pay contribution towards any expenses incurred by a candidate for any election to legislative body whether in India or elsewhere or to a locality authority or body. They are also prevented from supporting by any means the candidature of any person of such election.

26. Kerala Government Servants Conduct Rules, 1960 also prohibit Government servants from being a member of, or be otherwise associated with, any political party or any organisation which takes part in political party or any organisation which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity. It also prohibits their association associating with any political party or engage itself in any political activity. Therefore the intention of the Kerala Education Rules is that teachers and staff shall not indulge in any political activity. They are also statutorily prohibited from resorting to any strike. It is made clear, the same yardstick be made applicable to the students as well, and it is all the more necessary in view of the constitutional provisions.

27. Parents/Guardians have got a social responsibility to see that their children shall not indulge in any anti-social activities, especially in the school and school campus. Their obligation is to educate their child in the school. Only by constant care and attention children will attain full emotional, intellectual and spiritual stability and maturity and acquire self-confidence and self-respect and a balanced view of life with full appreciation and realisation of the role which they have to play in the nation-building process. Parents should also give support to the Headmaster and teachers for maintaining proper discipline in the school.

28. Intention of all these provisions is to highlight the fact that there shall not be any political activity in the school campus either by teachers, staff or students. Therefore, it is the paramount duty of the Headmaster and teachers to see that students shall not indulge in any political activity. In many of the Govt. schools and also other aided schools, large number of children are studying from weaker sections of the society. Article 47 emphasises that State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. Therefore vulnerable section of the society is having their education in Government and other aided schools. So it is the paramount duty of the State Government to see that no child is exploited, which is a constitutional mandate. If education is disrupted by any form of exploitation either politically or otherwise, would offend their means of livelihood, which is guaranteed under Article 21.

ROLE OF HEADMASTER IN THE MATTER OF DISCIPLINE

29. As per Rule 10 of Chapter IX of the Rules Headmaster of a school shall be responsible for all matters connected with discipline in the school. Headmaster has to maintain discipline in the school, Headmaster has to see that the rules and orders issued by the Department and Government are complied with, to maintain the school premises in a healthy, neat and tidy condition, to organise and conduct staff council in which all the teachers may be members and the Headmaster, the Chairman. It is the duty of the teachers to maintain discipline in the class room and to assist the Headmaster in maintaining the general discipline of the school.

30. In order to safeguard the interests of all the children, responsibility of Headmasters, teachers and Parents is enormous, As held by a Full Bench of this Court in Aldo Maria Patroni and Another Vs. E.C. Kesavan and Others, the post of the Headmaster is of pivotal 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.

31. A Division Bench of this Court in Kerala State Electricity Board Vs. P.A. Thampi Rawther,) held that the inherent right and the quasi parental authority of a teacher to proceed by way of disciplinary action against a pupil under his charge has been well recognised over the years. A Division Bench of this Court in P.M. Unni Raja and Others Vs. Principal, Medical College, Trivandrum and Others,), held that the head of an educational institution like the Principal occupies a pre-eminent position and at the same time, now a days an unenviable one. He is answerable to the authorities and to the public for the discipline in the institution. Time was when his authority was never questioned. With passage of time, when educational institutions became the arena of activities by political and political forces, there was a deterioration of values cherished for long and an invasion on his powers. Still, it is necessary to unto him what is his. The Division Bench concluded that the essence of the matter is the Head of the institution should in law be presumed to possess an inherent right to do such acts as are necessary in his opinion to maintain discipline in the institution. This right is incapable of an exhaustive identification. To limit it within defined confines would be to erode into his authority and fetter his discretion. To deny this right to the head of the institution would be to sound the death-knell of discipline in the institution which is already a casualty, by the combination of diverse forces, from within and from without.

32. A Division Bench of this Court in Manu Vilsonv. S.N. College, (1996) 1 KLT 788 held that for maintaining the discipline in educational institutions it has become necessary to strengthen the hands of the heads of the institutions and to arm them with sufficient powers, so that those who are keen to study and to improve their career should not be made the victims of a handful of persons who are found to spoil the academic atmosphere by indulging in anti-social activities. Principal the head of the institution in consultation with the teachers should have the primary authority to initiate appropriate action against the students for

maintenance of discipline. His wisdom supported by other teachers should prevail overall other considerations.

33. Therefore in order to maintain proper discipline in the educational system, head of the institution should be armed with sufficient powers so that those who are keen to study and to improve their career should not be the victims of a handful of persons who may spoil the academic atmosphere by indulging in anti-social activities.

34. Considering the fact that right to education and right to uninterrupted education are fundamental rights guaranteed under Article 21 of the Constitution, and also the importance given by our founding fathers to Articles 39 41 45 and 46 of the Constitution. I am of the view that it is highly necessary that following directives should be issued to Headmaster/Principal in the Government schools, aided schools and other institutions and to the respondents herein to safeguard the rights of students in the light to the above mentioned constitutional principles:

(1) Headmaster/Principal should see that election to School Parliament be not conducted on political lines based on political party divisions.

(2) Headmaster of every school is free to conduct election to School Parliament to encourage sports, cultural and educational activities by organising games, tournaments, discussions, symposia, sramadan, etc.

(3) Headmaster and teachers should see that no student or student organisation be allowed to indulge in any political activity in the school campus or elsewhere so as to affect or disrupt the functioning of the school and studies of other students.

(4) It is the duty of the Headmaster to take immediate disciplinary action in accordance with Rule 6 of Chapter IX of the Kerala Education Rules, if he finds that any student or any student organisation is indulged in any political activity in the school campus or elsewhere so as to affect or disrupt the functioning of the school.

(5) It is the paramount duty of the Headmaster to see that no outsider directly or indirectly influence students either through students, teachers or staff in the school in the election, in the event of which it is the duty of the Headmaster to see that such interference is removed.

(6) It is also the duty of the Headmaster to report incident of violence or attempt to disrupt the studies in the school promptly to the nearby police station. Any failure on the part of the Headmaster in this direction will be treated as failure of duty which may lead to taking disciplinary action against him.

(7) It is also the duty of the police officers concerned to take prompt and immediate action as soon as they receive the report from the Headmaster. If it is found anybody is indulging in any criminal activity, police officers should register

a case against him and proceed in accordance with law. Any failure on the part of the police authorities will be treated as failure of duty and will entail disciplinary action.

(8) Government as well as the Director of Public instruction have assured this Court through counter-affidavit that politics and political interference do not form part of school election and that election to School Parliament is not politicised or not even conducted on the basis of political divisions, and therefore respondents 1 and 2 should see that appropriate regulatory safeguards be urgently taken so that no untoward incident will happen in the school campus.

(9) It is open to the Headmaster, teachers, to consult parents of the students as and when necessary for the better interests of the students, as well as for the proper functioning of the school and the system. However, decision of the Headmaster in the matter of discipline in the school and other allied matters will be final and binding.

(10) Right to uninterrupted education is a fundamental right guaranteed under Article 21 of the Constitution of India, read with Directive Principles of State Policy. Therefore it is incumbent upon the State to issue such regulatory measures so as to give effect to such constitutional provisions, over and above what has been stated hereinbefore.

35. I make it clear that since right to education is a fundamental right, and right to uninterrupted education in School or College is also a fundamental right, and that Articles 39 41 45 and 46 have also highlighted the importance attached to children, this judgment is made applicable not only to Government schools, Government aided schools, but - also to similar other schools and other institutions which impart education.

36. Election to Colleges and to schools which impart higher education as such is not subject-matter of this Writ Petition. Therefore I direct the State to issue appropriate regulatory measures in the light of the above mentioned constitutional principles, so as to contain unrest in student community in colleges as well as in other schools of higher education.

Original Petition is disposed of as above.