
(2004) 05 JH CK 0048

In the Jharkhand High Court

Case No : Writ Petition (C) No. 39 of 2004

Sunitra Mitra and Others

APPELLANT

Vs

Chairman, C.B.S.E. and Others

RESPONDENT

Date of Decision : 10-05-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2004 Jhar 114 : (2004) AIR Jhar HCR 1820 : (2004) 3 JCR 121

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Ritu Kumar, for the Appellant; M.S. Mittal and A.K. Mehta, for the Respondent

Judgement

M.Y. Eqbal, J.—Heard Mrs. Ritu Kumar, learned counsel appearing for the petitioners, Mr. M.S. Mittal, learned counsel appearing on behalf of the C.B.S.E. and Mr. A.K. Mehta learned counsel appearing on behalf of the Principal of the Indian School of Learning Saraidhela, Dhanbad.

2. The petitioners who happened to be standard DC students of studying in the Indian School of Learning, Saraidhela, Dhanbad, has filed the instant writ petition challenging the order as contained in the letter dated 23.7.2003, whereby the registration forms of the petitioners for All India Secondary Examination, 2005 have been returned to C.B.S.E. on the ground that be mistake registration forms were sent to the school from the office of the Board.

3. Further writ of mandamus has been sought directing the respondents to start processing the forms to be given to the petitioners for their appearance in the examination.

4. The relevant facts which need consideration are that the school namely, Indian School of Learning Saraidhela Dhanbad (for short "School") was having provisional affiliation with the C.B.S.E. It appears that because of non-fulfillment of the Rules and Regulations and other conditions show cause notices were

issued to the Board for withdrawing of the affiliation and ultimately by office order a contained, in the letter dated 26.6.2002, the Board withdrew the provisional affiliation granted to the school.

5. Mrs. Ritu Kumar, learned counsel appearing on behalf of the petitioners draws may attention to Annexures I and J to the counter affidavit and submitted that vide letter dated 13.2.2003, the C.B.S.E. asked the school to file fresh application for affiliation and accordingly application for fresh application was filed which was kept pending for consideration. In the mean time, by letter dated 1.6.2003 C.B.S.E. sent application form for the purposes of filling up by the same students for registration as Class IX students. Subsequently the impugned letter was issued withdrawing the affiliation and directing the school to return those forms.

6. For better appreciation I would like to quote internal Letter No. CBSE/Affl./3324/2002/10819/20, dated 27.6.2002, which is as follows :

"In view of the fact established that you are admitting unauthorised students from unaffiliated schools for Board's examination since long and the school had admitted 89 students studying in unaffiliated schools in 2001-02 and has violated the Rule 13, Clause 11 of the Affiliation and Rule 7.2 of the Examination Bye-laws of the Board. Therefore, it has been decided by the Board that provisional affiliation granted to the Indian School of Learning, Saraidhela Dhanbad upto Section stage be withdrawn with immediate effect. However, in order to save the future of the students who have been registered in Class IX in the year 2001 and 2002 are allowed to appear in Class X examination of the Board to be held in the year 2003 and 2004, as a special case. You are advised not to use the name of the C.B.S.E. in any manner whatsoever and not to run any class under the pattern of the C.B.S.E. and also not to open specifically Class IX from the year 2003 onwards and Board shall not responsible for the consequences arising out of it."

7. Admittedly, inspite of aforesaid order withdrawing the affiliation the school took admissions in Class IX in the year 2003-04. This action on the part of the Principal of the school was highly illegal and unjustified. When the affiliation of the school was withdrawn in the year 2002 itself, then Principal of the school forgetting fresh affiliation ought not to have registered the students for Class IX standard. In my considered opinion so as long the school was not granted affiliation no direction can be issued to the Board for the registration of these students in Class IX standard. It is true that the petitioners have been unnecessarily suffering because of the illegal action of the principal of the school. It is the principal against whom the petitioner or their parents may proceed in accordance with law.

8. However, before parting with this order, I must observe that when these petitioners have entered into school in Class Prep if those students who entered into schools in Prep and studied continuously right up to Class VIII standard and

when the application for fresh affiliation is pending before the Board, it is desirable that the Board should taken immediate decision and the ground of affiliation to the school.

9. It is expected from the Board that it shall taken decision within a period of 30 days from the date of receipt of this order so that the future of the petitioners may be saved.