

State Of Maharashtra vs Vikas Sahebrao Roundale And Ors on 11 August, 1992

Equivalent citations: 1992 AIR 1926, 1992 SCR (3) 792, AIR 1992 SUPREME COURT 1926, 1992 (4) SCC 435, 1992 AIR SCW 2182, (1992) 5 JT 175 (SC), (1992) 3 SCR 792 (SC), 1992 (3) SCR 792, 1992 (5) JT 175, 1992 (2) UJ (SC) 680, 1992 UJ(SC) 2 680, 1993 (1) UPLBEC 534, 1993 (1) APLJ 1, (1993) 1 UPLBEC 534, (1992) 2 ANDHWR 37, (1993) 1 MAHLR 144, (1992) 5 SERVLR 74, (1993) 1 BOM CR 437

Author: K. Ramaswamy

Bench: K. Ramaswamy, N.M. Kasliwal, G.N. Ray

PETITIONER:
STATE OF MAHARASHTRA

Vs.

RESPONDENT:
VIKAS SAHEBRAO ROUNDALE AND ORS.

DATE OF JUDGMENT 11/08/1992

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
KASLIWAL, N.M. (J)
RAY, G.N. (J)

CITATION:
1992 AIR 1926 1992 SCR (3) 792
1992 SCC (4) 435 JT 1992 (5) 175
1992 SCALE (2) 163

ACT:

Article 226-III equipped under staffed unrecognised educational institutions-Students admitted to D.Ed. course in unrecognised institution-Held High Court committed manifest error in exercising prerogative power to permit appearance for examination.

HEADNOTE:

In the instant case the respondents were admitted to

D.Ed. Course by an unrecognised Vidhyalaya, when the examinations were to commence from April 18th 1991, the management finding it difficult to have them sit for the examination encouraged the respondents to tap the doors of the High Court of Bombay at Nagpur Bench to seek directions to permit them to appear in the examination to be held on 18th April, 1991. The Division Bench directed the appellant i.e., the State of Maharashtra to permit the respondents to sit in the examination for the first year commencing from April 18, 1991 and after their passing the examination, the passed candidates should be allocated seats in a recognised institution to prosecute their further courses. Assailing the legality thereof this appeal has been filed in this court.

Granting Special leave, the Court

HELD: That this court has judicially noticed mushroom growth of ill equipped and under staffed unrecognised institutions in Andhra Pradesh, Bihar, Tamil Nadu and Maharashtra States in particular, though other states too are of no exception. Obviously the field of education is found to be fertile, perennial and profitable business venture with least capital outlay and the instant case is one such from the State of Maharashtra. [794F-G]

That the appellants have rightly contested that the directions issued by the High Court runs counter to the statute and in virtue directing the authorities to disobey the law which is impermissible. [796 B]

Considering the cases decided by this Court regarding private in-

793

stitutions unauthorisedly established and the request for the permission to appear in examinations or accommodate them elsewhere to enable them to prosecute further studies had been negatived by this court in the under mentioned cases:- [796C]

N.M. Nageshwaramma v. State of Andhra Pradesh & Anr., [1986] Suppl. S.C.C. 166 = A.I.R. 1986 S.C. 1188; A.P. Christians Medical Educational Society, etc. v. Government of Andhra Pradesh & Anr., [1986] 2 S.C.C. 667 = A.I.R. 1986 S.C. 1490; All Bihar Christian Schools Association & Anr. v. State of Bihar & Ors., [1988] 2 S.C.R. 49; State of Tamil Nadu & Ors. v. St. Joseph Teachers Training Institute & Anr., J.T. [1991] 2 S.C. 343 and Students of Dattatraya Adhyapak Vidhyalaya v. State of Maharashtra & Ors., (S.L.P. (C) No. 2067 of 1991 decided on 19.2.91).

This Court has held that the courts giving directions to relieve hardships of the students has resulted in total indiscipline in the field of regulation. While in the case of Andhra Kesari Education Society v. Director of School Education & Ors., [1988] Supp. 3 S.C.R. 893 on which the respondents have relied upon, this Court issued directions in special circumstances and therefore cannot be taken as a precedent in particular in the light of the law laid down by

this court in its various judgments. [797A-D]

Further even Article 51A enjoins every citizen by clause (h) to develop the scientific temper, humanism, the spirit of enquiry and reform; clause (i) enjoins as fundamental duty to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises higher and higher. Thus clause (a) 8 (f) intend to value and preserve rich heritage of our composite culture are some of the basic values which the budding students need to be inculcated and imbibed in their formative periods to take deep roots at maturity. Even the teacher needs not only the training at the inception but also periodical orientations in this behalf so that the children would reap the rich benefit thereof. So the ill equipped and ill housed institutions with substandard staff therein are counter productive and detrimental to inculcating spirit of enquiry and excellence to the students. To disregard statutory compliance would amount to letting loose of innocent and unwary children. Even in the proceeding of a recent seminar held in Delhi it is clearly demonstrated as an admission by teachers that they are not properly trained to meet the growing needs of the society. The qualitative training in the training Colleges or School

794

would inspire and motivate them into action to the benefit of the students. For equipping such training all facilities and equipments in training colleges or schools are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. Thus the compliance of the statutory requirements is insisted upon. Any slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education. Thus directions to the appellants to disobey the law is subversive of the rule of Law, a breeding ground for corruption and feeding source for indiscipline. The High Court therefore, committed manifest error in law, in exercising the prerogative power conferred under Article 226 of the Constitution, directing the appellants to permit the students to appear in the examination.

[797E-798F]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2932 of 1992.

From the Judgment and Order dated 8.4.1991 of the Bombay High Court in Writ Petition No. 2450 of 1990.

S.K. Dholakia S.M. Jadhav and A.S. Bhasme for the Appellant.

R.B. Masodkar and K.L. Taneja for the Respondents. The Judgment of the Court was delivered by K. RAMASWAMY, J. Special leave granted.

This court judicially noticed mushroom growth of ill equipped and under-staffed unrecognised educational institutions in Andhra Pradesh, Bihar, Tamilnadu and Maharashtra States and other states too are no exceptions. Obviously the field of education is found to be fertile, perennial and profitable business venture with least capital outlay. This case is one such from the State of Maharashtra.

It would appear that individuals or societies without complying with the statutory requirements, establish educational or training institutions ill equipped to impart education and have the students admitted, in some instances despite warnings by the State Govt. and in some instances without knowledge of the concerned State Govt, but with connivance at lower levels.

In this case the respondents in all 129, were admitted to D.Ed. course by unrecognised Yashomati Adhyapak Vidhyalaya, Warthi, District Bhandara. When the examinations were to commence from April 18, 1991, the management finding it difficult to have them sit for the examination, obviously encouraged the respondents to tap the doors of the High Court of Bombay at Nagpur Bench who sought direction to permit them to appear in the examination to be held on that day. The Division Bench allowed the Writ Petition No. 2450 of 1990 by order dated April 8, 1991 and directed the appellant to permit the respondents to sit in the examination for the first year commencing from April 18, 1991 and after their passing the examination, the passed candidates should be allocated in a recognised institution to prosecute their further courses. Assailing the legality thereof this appeal has been filed.

Sri Dholakia, the learned senior counsel for the appellants, contended that the respondents having had admission in an unauthorised college, have no right to seek writ of mandamus or direction from the court to permit them to sit for the examination or to accommodate them in the recognised institutions to pursue a further study. It is also contended that the direction issued by the High Court runs counter to the statute and in virtue directing the authorities to disobey the law which is impermissible. We find force in the contention.

In *N.M. Nageshwaramma v. State of Andhra Pradesh & Anr.*, [1986] (Supp) SCC 166 = AIR 1986 SC 1188 this court held that the private institutions unauthorisedly established were invariably ill housed, ill staffed and ill equipped. If the Govt. is directed to permit the students admitted into those institutions, to appear in the examination, we will practically be encouraging and condoning the establishment of unauthorised institutions. It is not appropriate that the jurisdiction of the court either under Art. 32 or Art. 226 of the Constitution should be frittered away for such a purpose. So the request to permit the students who had training in unrecognised schools was deprecated by this court.

In *A.P. Christians Medical Educational Society, etc. v. Govt. of Andhra Pradesh & Anr.*, [1986] 2 SCC 667 = AIR 1986 SC 1490 when fervent request with all persuasion by the Senior counsel, Sri K.K. Venugopal, to permit the students admitted in unrecognised and unauthorised institution to pursue

balance course was made, this court noted thus:

"We do not think that we can possibly accede to the request made on behalf of the students any direction of the nature sought for would be in clear transgression of the provisions of the University Act and the regulations of the University. We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the court to disobey the laws."

The request to permit the students to appear in the examination and to accommodate them elsewhere to enable them to prosecute further study was negated by this court.

In all Bihar Christian Schools Association & Anr. v. State of Bihar & Ors., [1988] 2 SCR 49, this court, when the ill equipped and mismanaged schools were taken over by an Act whose validity was challenged on the anvil of Art. 30 of the constitution, held that even the minority institutions are subject to statutory regulations and establishment and maintenance of such an educational institution should be in conformity with the statute and the state is entitled to regulate the establishment of the educational institutions and the admission of the students in those educational institutions. It was held that the educational institutions of the minorities have no right to mal-administration. Any rule or direction issued by the Govt. to prevent mal-administration would be valid.

In State of Tamil Nadu & Ors. v. St. Joseph Teachers Training Institute & Anr., JT (1991) 2 S.C. 343 the High Court of Madras while dismissing the writ petitions filed by unauthorised educational institution, gave direction to admit the students for the examination. This court held that the direction of admitting students of unauthorised educational institutions and thus seeking direction for permitting the students to appear at the examination has been looked with disfavour by this court. It was held that since the students of unrecognised institutions were legally not entitled to appear at the examination conducted by the education department of the Govt., the High Court acted in violation of law in granting permission to such students for appearing at the public examination. Accordingly the appeal was allowed and the direction issued was set aside.

In Students of Dattatraya Adhyapak Vidhyalaya v. State of Maharashtra & Ors., S.L.P. (C) No. 2067 of 1991 decided on 19.2.91 this court held thus:

"We are coming across cases of this type very often where allegations are made that innocent students are admitted into unrecognised schools and are made to suffer. Some Courts out of compassion occasionally interfere to relieve the hardships. We find that the result of this situation is total indiscipline in the field of regulation."

In Andhra Kesari Educational Society v. Director of School Education & Ors., [1988] Supp. 3 SCR 893 relied upon by the counsel for the respondents, no doubt this court directed the Govt. to consider whether the students in the appellant's college have undergone the necessary B. Ed. course and has permitted them to appear in the ensuing examination and publish their results. In that case

there was a long drawn history of the recognition of the institute and that the direction was issued by this court in the special circumstances therein. Therefore, it cannot be taken as a precedent, in particular, in the light of the law laid down by this court as stated supra.

Article 51A enjoins every citizen by clause (h) to develop the scientific temper, humanism, the spirit of inquiry and reform and clause (j) enjoins as the fundamental duty to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement; (a) respect of national flag and national anthem; (e) to promote harmony and spirit of common brotherhood amongst all the Indian people transcending religious, linguistic and regional or sectional diversities to renounce practice derogatory to the dignity of woman; (f) to value and preserve rich heritage of our composite culture, etc. are some of the basic duties with which the budding students need to be inculcated and imbibed. They should be sowed in the receptive minds in their formative periods so that they take deep roots at maturity. The teacher needs, not only the training at the inception, but also periodical orientations in this behalf so that the children would reap the rich benefit thereof. The ill equipped and ill housed institutions and sub-standard staff therein are counter productive and detrimental to inculcating spirit of enquiry and excellence to the students. The disregard to statutory compliance would amount to letting loose of innocence and unwary children. The proceedings of the recent seminar held in Delhi, as published by the Times of India dated 4th August, 1992, would demonstrate the admission by the teachers that they are not properly trained to cope up with the growing needs of the society and are unsuited to the duties they have to shoulder in imparting teaching to the children. The teacher plays pivotal role in moulding the career, character and moral fibres and aptitude for educational excellence in impressive young children. The formal education needs proper equipping by the teachers to meet the challenges of the day to impart lessons with latest technics to the students on secular, scientific and rational outlook. A well equipped teacher could bring the needed skill and intellectual capabilities to the students in their pursuits. The teacher is adorned as Gurudevobhava, next after parents, as he is a Principal instrument to awakening the child to the cultural ethos, intellectual excellence and discipline. The teachers, therefore, must keep abreast ever changing technics, the needs of the society and to cope up with the psychological approach to the aptitudes of the children to perform that pivotal role. In short teachers need to be endowed and energised with needed potential to serve the needs of the society. The qualitative training in the training colleges or schools would inspire and motivate them into action to the benefit of the students. For equipping such trainee students in a school or a college, all facilities and equipments are absolutely necessary and institutions bereft thereof have no place to exist nor entitled to recognition. In that behalf compliance of the statutory requirements is insisted upon. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education. The directions to the appellants to disobey the law is subversive of the rule of law, a breeding ground for corruption and feeding source for indiscipline. The High Court, therefore, committed manifest error in law, in exercising its prerogative power conferred under Art 226 of the Constitution, directing the appellants to permit the students to appear for the examination etc. It is now conceded across the Bar that pursuant to the impugned direction, out of 129 students that appeared for examination, only one student had passed which tells a sad story of the quality of the training given to them and the passed student was accommodated in another recognised institution. His admission would remain undisturbed. It is also contended by the State that the findings of the

High Court that the eligibility of the respondents was in compliance with G.R. dated October 26, 1990 and the letter of the Dy. Officer, Jila Parishad, Bhandara dated Feb. 25, 1991 are contrary to the facts and are not properly appreciated by the High Court. There is force in the contention, but on the facts in this case, it is not necessary to decide the same and it is for the High Court in a proper case to consider the same properly and deal with the matter in accordance with law.

The appeal is accordingly allowed, but in the circumstances with no order as to costs.

S.B.

Appeal allowed.