

Santosh Singh vs Union Of India And Anr on 22 July, 2016

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REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 1028 OF 2014

MRS. SANTOSH SINGH

.....PETITIONER

VERSUS

UNION OF INDIA & ANR

.....RESPONDENTS

J U D G M E N T Dr D Y CHANDRACHUD, J 1 The petitioner is an advocate-on-record practicing before this Court. Invoking the jurisdiction under Article 32 of the Constitution, the petitioner states that she is “deeply distressed with the rapidly degrading moral values in the society touching every aspect of life where making money, anyhow has become the sole motto of society”.

2 The grievance of the petitioner is that the present education system does not inculcate the true purpose of education, which is to produce a good human being. The State, in the submission of the petitioner, is under a constitutional obligation to endeavour to provide educational facilities which inculcate moral values in the course of primary and secondary education. It has been urged that the course curriculum prescribed by the Central Board of Secondary Education (“CBSE”) and the National Policy on Education do not recognise a sufficient status for “moral education”. In the submission of the petitioner, the failure to include moral science as a compulsory subject violates Article 25 of the Constitution which recognises the freedom of conscience and the fundamental right to profess, practice and propagate religion. This in the submission militates against the fundamental duties contained in Article 51A(f) of the Constitution. Impressed by the need to protect the moral fibre of the nation, the petitioner seeks a mandamus for the inclusion of moral science as a compulsory subject in the syllabus of school education from classes I to XII “in order to inculcate moral values and nurture national character in the national interest”.

3 The respondents to these proceedings are the Union of India through the Ministry of Human Resource Development and CBSE. In response to the notice issued by this Court on 2 February 2015, a counter affidavit has been filed by CBSE before this Court. The learned ASG states that the Union of India adopts the counter filed by CBSE.

4 The National Policy on Education of 1986, while examining the values of education states thus:

“8.4 The growing concern over the erosion of essential values and an increasing cynicism in society has brought to focus the need for readjustments in the curriculum in order to make education a forceful tool for the cultivation of social and moral values.

8.5 In our culturally plural society, education should foster universal and eternal values, oriented towards the unity and integration of our people.

Such value education should help eliminate obscurantism, religious fanaticism, violence, superstition and fatalism.

8.6 Apart from this combative role, value education has a profound positive content, based on our heritage, national and universal goals and perceptions. It should lay primary emphasis on this aspect.” Similarly, the National Curriculum Framework of 2005 emphasised that:

“We need to reaffirm our commitment to the concept of equality, within the landscape of cultural and socio-economic diversity from which children enter into the portals of the school. Individual aspirations in a competitive economy tend to reduce educating to being an instrument of material success. The perception, which places the individual in exclusively competitive relationships, puts unreasonable stress on children, and thus distorts values. It also makes learning from each other a matter of little consequence. Education must be able to promote values that foster peace, humaneness and tolerance in a multicultural society.” 5 The Framework emphasizes that in order to foster democracy as a way of life rather than only as a system of governance, the values enshrined in the Constitution assume paramount significance. The Framework takes specific note of the importance ascribed by the Constitution to the constitutional values of equality, justice, liberty and secularism.

6 CBSE has stated in its response that it has integrated these values of education across the curriculum to inculcate constitutional values and core universal human values which are affirmed across all cultures. CBSE states that it emphasises value based education by adopting a three pronged approach which comprehends:

(i) drawing all stakeholders into the school community;

(ii) permeating the school climate across its entire curriculum;

(iii) including in its materials a broad range of concepts such as a positive, just and caring school environment, moral education, social-

emotional learning, positive youth development, civic education and service learning.

7 In order to facilitate the achievement of these objects, CBSE has adopted concrete measures including a modified scheme of assessment with attitude and values. In 2009, CBSE strengthened the scheme of assessment for classes IX and X by emphasising co-scholastic areas of life-skills, attitudes and values, sports and games as well as co-curricular activities. The Board has specifically focused on Article 51A of the Constitution in its effort to inculcate democratic values. Besides introducing a modified scheme of assessment with attitude and values, CBSE has introduced value based questions in the Summative Assessment –II in classes IX and X and in the year end examination for classes XI and XII from the year 2012-2013. The Board has adopted an interdisciplinary approach and decided to assess students with approximately a five per cent weightage in each subject at the above Summative Assessments through questions which have been integrated with the content of the subject and analysed on the basis of the values it reflects.

8 In order to further this object, circulars were issued by CBSE on 19 June 2012. CBSE has also published a Handbook for teachers on value education in 1997 of which revised editions were brought out in 2003 and 2012. In 2015, CBSE launched a values education kit comprising of a revised values education teachers' Handbook, a set of value cards and other materials. The values education kit has been developed to provide broad guidelines for teachers on moral education. This serves as a resource for teachers to conduct interactive sessions in their classes.

9 Among the other steps which have been taken by CBSE are:

- “(i) A Manual on environmental education and adolescence education;
- (ii) Initiation of an ‘Awakened Citizens Programme’ with Ramakrishan Mission;
- (iii) An educators Manual for gender sensitivity pedagogy at primary, middle, secondary and senior secondary classes;
- (iv) Introduction of a human rights and gender studies elective course;
- (v) Steps to improve inclusive education particularly for students with disabilities and special needs.”

10 The counter filed by CBSE explains the salient features of its approach towards gender sensitization and equality education through the human rights and gender studies elective, thus:

“The teaching of gender issues encompasses a wide range of questions, which are related to the underlying concepts of gender as they are evolved in various academic disciplines, epistemological approaches and institutional setting of modern

educational systems on all levels.

The aims of a possible perspective in teaching gender as gender always contains a socio-political and an academic aspect. The question of how gender works in the educational system will be the subject of the course.

Teaching gender also involves the potentials and the problems of gender being a universal individual experience, personal or social in the institutional setting.

This course is intended to make students aware of the ways in which gender is “taken for granted” and how gender is learned, the implications of gender for our lives, and prospects for change insofar as men and women are able to combine and/ or reject elements of traditional masculinity and femininity.

The course will look at gender within the context of different social institutions (e.g. the family, the workplace, education, etc.) and look at ways in which gender roles are maintained by these institutions and/or effectively learned through socialization.”

11 CBSE has also stated that the new textbooks of NCERT, following the integrated approach, have included content that provides students with an opportunity to focus on personal, social, constitutional and humane values. Illustrations have been furnished to the Court of the specific chapters devoted to inculcating these values in textbooks prescribed for various subjects including Geography, Social Science, History, Chemistry, Biology and Mathematics. A resource book entitled “Ways to Peace” has been written for teachers to promote attitudes, values and skills necessary for living in harmony with oneself and others.

12 In December 2012, NCERT developed a framework titled “Education for Values in Schools” in consultation with various stakeholders such as principals, teachers and educationists. The Framework deals with the need for shifting from conventional pedagogy to a new pedagogy of values by adopting what is described as a ‘whole school approach’ to education focusing on core values. CBSE has particularly emphasised the following:

“(i) Co-curricular activities, such as discussions, debates, exhibitions, projects, skits, celebration of important days, such as earth day, environment days, national education days, Heritage India Quiz, morning assemblies, birthdays of leaders such as Swami Vivekananda , Rabindra Nath Tagore, etc. taking up community service, adult education drive, rallies and walks for noble causes.

(ii) Fundamental rights and duties, and Directive Principles of State Policy form part of the Social Science syllabus for Class VIII and Class XI, Political Science.

(iii) Brought out various publications for inculcation of values among children.” The Board has specifically focused on Article 51A of the Constitution as these values are counted in the performance of students. Schools are bound to inculcate them by

conducting curricular, cross-curricular group activities and projects.

13 The petitioner essentially invokes the jurisdiction of this Court under Article 32 for seeking a mandamus for the introduction of moral science as a separate subject in the school curriculum.

14 There can be no gain-saying the fact that moral values are an integral component of value based education. The purpose of education is to engender in the young, a spirit of enquiry, a desire for knowledge and a sense of values. Among those values are the fundamental values on which our constitutional core is founded: liberty, equality and the dignity of each individual. The purpose of education also includes the creation of responsible and informed citizens conscious both of their rights and of their duties to others.

15 Education is an important instrument towards the development of the individual as indeed, it is a vital instrument in nation building. Technology has effaced conventional barriers and the world has become a globally networked community of information ideas. The challenges which confront the system of education have evolved rapidly, perhaps too rapidly for our educational system to develop pragmatic solutions to meet them.

16 The issue before the Court is whether a mandamus of this nature can be issued by the Court in the exercise of its jurisdiction in the public interest.

17 While there can be no dispute about the need of providing value based education, what form this should take and the manner in which values should be inculcated ought not to be ordained by the court. The court singularly lacks the expertise to do so. The petitioner has a grouse about what she describes as the pervading culture of materialism in our society. The jurisdiction of this Court under Article 32 is not a panacea for all ills but a remedy for the violation of fundamental rights. The remedies for such perceived grievances as the petitioner has about the dominant presence of materialism must lie elsewhere and it is for those who have the competence and the constitutional duty to lay down and implement educational policies to deal with such problems.

18 There is a tendency on the part of public interest petitioners to assume that every good thing which society should aspire to achieve can be achieved through the instrumentality of the court. The judicial process provides remedies for constitutional or legal infractions. Public interest litigation allows a relaxation of the strict rules of locus standi. However, the court must necessarily abide the parameters which govern a nuanced exercise of judicial power. Hence, where an effort is made to bring issues of governance before the court, the basic touch stone on which the invocation of jurisdiction must rest is whether the issue can be addressed within the framework of law or the Constitution. Matters of policy are entrusted to the executive arm of the State. The court is concerned with the preservation of the rule of law.

19 This petition is illustrative of matters which lie beyond the province of judicial review. Whether children pursuing their education from classes I to XII should be saddled with a separate course of moral science is not for the court to decide. Whether a value based educational system would best be subserved by including a separate subject on moral science or whether value based teaching should

traverse the entire gamut of a prescribed curriculum is a matter which cannot be resolved by applying settled norms of judicial review. These are matters which cannot be determined in the exercise of the jurisdiction of the court under Article

32. 20 The argument on morality seems attractive to those - like the well meaning petitioner -who lament the decadence of civilisation. Combine morality with the need to redefine the values which a society wishes for its young and you have a seemingly persuasive argument in support. The difficulty in a court mandated acceptance of this argument is precisely its inability to unravel the complexities in the position and the answers which it proposes.

21 Morality is one and, however important it may sound to some, it still is only one element in the composition of values that a just society must pursue. There are other equally significant values which a democratic society may wish for education to impart to its young. Among those is the acceptance of a plurality and diversity of ideas, images and faiths which unfortunately faces global threats. Then again, equally important is the need to foster tolerance of those who hold radically differing views, empathy for those whom the economic and social milieu has cast away to the margins, a sense of compassion and a realisation of the innate humanity which dwells in each human being. Value based education must enable our young to be aware of the horrible consequences of prejudice, hate and discrimination that continue to threaten people and societies the world over. Morality as a defining concept of spreading values may run the risk of being dangerously one sided, exposing young citizens to the same dogma which those who decry the creed of materialism seek to change. Moreover, morality itself is a notion which has varying hues.

22 It is unrealistic for the court to assume that it can provide solutions to vexed issues which involve drawing balances between conflicting dimensions that travel beyond the legal plane. Courts are concerned with issues of constitutionality and legality. It is difficult to perceive how matters to which solutions may traverse the fields of ideology, social theory, policy making and experimentation can be regulated by this court such as by issuing a mandamus to enforce a scheme of instruction in a particular subject in school education. Should a subject be taught at all? Should a set of values or a line of enquiry and knowledge be incorporated as a separate subject of discourse in an educational system? Would a horizontal integration of a given set of values across existing subjects better achieve a desirable result? Is it at all desirable to impose another subject of study upon the already burdened school curriculum?

23 These are vexed issues to which more than one solution may appear just. That is exactly the reason why a resolution of such matters must rest with those who have the responsibility to teach and govern over matters of education. Every good that is perceived to be in the interest of society cannot be mandated by the court. Nor is the judicial process an answer to every social ill which a public interest petitioner perceives. A matter such as the present to which a solution does not rest in a legal or constitutional framework is incapable of being dealt with in terms of judicially manageable standards.

24 In any event, we have adverted at some length to the response which has been filed by CBSE, which has also been adopted by the Union of India, as reflective of its position. The issue whether an

alternative approach would better subserve the concern for providing value based education is not a matter for the court to evaluate.

25 For these reasons, we find no merit in the Writ Petition. The Petition shall accordingly stand dismissed. The applications for impleadment and intervention are disposed of accordingly.

.....CJI [T S THAKUR]J [Dr D Y
CHANDRACHUD] New Delhi JULY 22, 2016.