

Allahabad High Court

Rajendra Singh And Others vs Union Of India And Others on 26 April, 1995

Equivalent citations: AIR 1995 All 430

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Bench: N Ganguly

ORDER

1. The petitioners are parents of students studying in Jawahar Navodaya Vidyalaya, Meja Khas, Allahabad. The Jawahar Navodaya Vidyalaya is an educational institution run under the Scheme formulated by the Ministry of Human Resources Development, Department of Education, New Delhi. The institution is purely a residential institution when the students are admitted after competition to class VI standard. The meritorious students, who succeed in the examination and are admitted to the institution, get all assistance of free lodging, boarding and education.

2. The teachers and staff of the institution are Government servants, who work under the supervision of the Ministry and the Deputy Director of Education Incharge Jawahar Navodaya Vidyalaya Samiti, Lucknow. It is said that the management of the local institution at Allahabad is under the chairmanship of the District Magistrate, Allahabad.

3. According to the scheme and administration of the institution the students are required to maintain discipline and are to stay in the hostel provided by the Institution. They are not permitted to go out of the compound of the institution except in summer and winter vacations. The parents and guardians of the students studying there are permitted to meet their wards on first Sunday of every month. The fooding, clothing, necessary books, stationary etc., are provided by the institution.

4. On Sri C.D. Pathak was the Principal of the institution since 1988. It is said that there were two groups of teachers, one alined to the Principal. The Principal, Sri Pathak was over all Incharge in the management of the institution including management and looking after the arrangement for providing food, breakfast etc. to the inmates of the hostel. The inmate students were supplied rotten food in the hostel, who resented and informed their parents. The teachers alined in the group of the Principal Sri Pathak took ill of it and started harassing and torturing the inmates. The other teachers of the institution showed their helplessness in the matter. The clothes supplied were of the roughest quality although the vouchers and bills were for the cloth manufactured by the Delhi Cotton Mills. A targe number of students, whose names are mentioned in Annexures 1 and 2 to the writ petition, whom were not porvided food for three days on the advice of other teachers met the Principal, who declined to provide food. The students of the institution were made victim of atrocities, assault and torture by the teachers alined to the Principal Sri Pathak.

The Principal Sri Pathak in order to save his own skin and that of other teachers, who were assisting him in torturing the students, lodged and F.I.R. at the police Station under Sections 147, 148, 436, 342, 487 and 506, IPC read with Section 3/4 of the Prevention of Damage to Public Properties Act and the police investigated into the matter and a final report was submitted against all the students of class IX, X and XI mentioned in Annexures 1 and 2 to the writ petition. At the time of filing of the F.I.R. the Principal of the institution considered it proper to close the institution sine die from

4-9-1994. It was reopened on 1-12-1994. The petitioner personally visited the institution and contacted the respondent No. 2, Deputy Director of Education, Jawahar Navodaya Vidyalaya Samiti, Lucknow. It was resolved in the meeting dated 2-10-1994 convened under the Chairmanship of Sri A.P. Trivedi, Assistant Director Navodaya Vidyalaya Samiti in which the guardians and parents of the students to the institution were present, that the incident, which is said to have happened on 1-9-1994 be condemned. The students of the institution be called to the institution so that their education may not suffer and further arrangements for examination etc. be also made. About those students, whose names were mentioned in the FIR. it was decided that their guardians and parents shall have to give undertaking in writing that they shall not indulge in repetition of such activities.

5. In spite of the said facts the institution was not opened by the Principal of the institution and the District Magistrate, who is the Chairman of Navodyaya Vidyalaya Samiti was pleased to appoint Sri R.N. Singh, Addl. District Magistrate as enquiry officer, who submitted his report on 6-1-1995. It is said that in the report correct facts were mentioned that students were not at fault. It was the college politics and other various factors which had given rise to the incident of Sept. 1, 1994. The Deputy Director of Education, Jawahar Navodyaya Vidyalaya Samiti in spite of the report of the Addl. District Magistrate again called for furnishing a fresh report. He had not passed any order permitting the students to start study in the institution. The parents of the students made representations on 9-2-1995 and 13-2-1995 to the District Magistrate but no action was taken nor any steps for re-opening the institution was taken by the respondents.

6. In the meantime Sri Pathak, Principal of the institution, who was said to be responsible and who caused all mismanagement, was transferred. Sri S.P. Singh, Sri G.D. Vyas and Sri S.K. Misra and some other teachers were also transferred. Perhaps they were also found to be responsible for the mismanagement and other allegations levelled against the Principal.

7. The present writ petition has been filed by the parents and guardians of their wards studying in the institution for issuing a writ of mandamus commanding the respondents to permit the students mentioned in Annexures 1 and 2 to the writ petition to study in the institution in their respective classes i. e. Classes XI, X and IX forthwith. The students of Class XI may also be permitted to appear in the home examination of Class XI. The students of the institution be also provided the necessary facilities of fooding, lodging, stationery and books etc. as provided under the scheme of Jawahar Navodyaya Vidaya-laya by the Ministry of Human Resources Development.

8. A counter affidavit has been filed by the respondent, by an interim direction dated 7-3-1995 this Court was pleased to direct that meanwhile if the petitioners approached along with a representation to the District Magistrate, Allahabad, who is said to be the Manager of the institution, the District Magistrate shall look into the grievances of the concerned students and pass appropriate orders having regard to the facts and circumstances of the case and the interest of the concerned students in view of the impending Board's examination. If possible the District Magistrate shall take appropriate decision in the matter within a week. Again the interim direction was issued on 27-3-1995 by this Court wherein it was said as under:

"Heard Sri S. N. Srivastaya and Sri S. C. Mistra for the Opposite Parties.

This Court by order dated 7-3-1993 directed the petitioners to approach the District Magistrate who was to pass appropriate order about the beginning of the classes of the petitioner. The District Magistrate by order dated 13-3-1995 directed that Jawahar Navo-dai Vidyalaya, Meja in which certain classes were closed, will restart immediately and the teaching, residence of the petitioner be conducted and facility for appearing in the examination be provided. The said order was communicated to the Principal and the Principal of the Vidyalaya appears to have defied the order by letter dated 15-3-1995. It is said that the Principal of the institution has not complied with the order of the District Magistrate and is adamant to stick to his stand. As a last opportunity I direct that the Principal of the institution to comply with the order of the District Magistrate dated 13-3-1995 without delay and file affidavit of compliance before this Court on or before 6-4-1995. The petitioner is permitted to produce a copy of this order before the Principal.

Sd. N. L. Ganguly, J.

27-3-1995."

9. With a supplementary affidavit the petitioner have filed a copy of the order of the District Magistrate dated 13-3-1995. The District Magistrate had directed the Principal of the Jawahar Navodaya Vidyalaya, Meja, Allahabad that the teaching work in the institution to all the (standards) be started immediately and they may be provided all facilities of lodging, boarding, fooding etc. This order was passed in compliance with the order of the High Court dated 7-3-1995. The order quoted above dated 27-3-1995 was passed by the Court for complying with the directions given by the District Magistrate. In the counter affidavit of Dr. Mohammad Kasem, Principal, Jawahar Navodaya Vidyalaya, Meja, Allahabad in para 7 thereof the allegations against the out-going Principal Sri C. D. Pathak neither were accepted nor denied. It was stated in para 12 of the counter affidavit that the decision of suspending the classes is the decision of Navodaya Vidyalaya Samiti, Lucknow. It is not the decision of the Principal. The counter affidavit further (states) the nominee of the District Magistrate-one of the Addl. District Magistrates-made recommendations which were communicated to the Navodaya Vidyalaya Samiti Lucknow and the Samiti has been locking into the matter seriously who by the decision dated 15-4-1995 disposed of the matter in the presence of the guardians. It has not been disclosed what was the decision, how the tangle was solved and a very vague reply was submitted in the counter affidavit. A stress has been laid in the counter affidavit that the students beat the teachers, looted their property and damaged their belongings and also destroyed Vidyalaya property such as tube lights fans bulbs, T.V. furnitures, coolers, almirahs, toilet sinks and other items.

10. In the counter affidavit the present Principal Dr. Mohd. Kaleem stated that it is entirely at the disposal of the Navodaya Vidyalaya Samiti to call and allow the students to continue their studies in the campus or elsewhere. The Principal has nothing to do with this matter. It is prayed that in all such mailers Weeping the (sic) the Principal in mind the High Court may kindly issue directions to the Navodaya Vidyalaya Samiti, Regional office, Lucknow and Head Quarters at New Delhi so that the case may be expedited at the earliest.

11. A rejoinder affidavit has also been filed. The facts stated in the writ petition are reiterated. It has been stated that no orders of the Deputy Director of Education Navod-yaya Vidyalaya Samiti, Lucknow has been filed by the opposite parties with the counter affidavit for me date of such order is disclosed.

12. The petition is ready for hearing and counter affidavit and rejoinder affidavit have been exchanged between the parties. The matter is important and urgent and the learned counsel for the parties have consented to decide the petition finally.

13. I have heard the learned counsel for the parties at length.

14. The question for consideration before this Court is whether the public educational institutions, which are supposed to be ideal institution, financed and run under the guidance and scheme of the Ministry of Human Resources Development, be permitted to be mismanaged by the educational authorities, Principal and certain teachers of the institution, who for certain personal gains of their had not provided the necessary food-ing, clothing and other facilities, which are provided by the Government to the inmates of the hostel. The complaint by the students when raised, the atrocities and torture at the hands of the teachers and Principal of the institution met by the students, whether can be likely ignored in view of the fact that the FIR lodged by the principal of the institution against the students named in Annexures 1 and 3 to the writ petition, on investigation was found to be baseless and false and a final report was submitted.

15. This Court remain a silent spectator to such atrocities and brutal acis of ihe principal and teachers of their awn students and depriving them of fooding and clothing keeping them starving. This type of violation of the human rights is not to be lightly dealt with or given a go bye. It is perhaps on account of the mismanagement made by the out-going principal and teachers of the institution that the incident of unrest said to have taken place on 1-9-1994. It also appears that the Njvodaya Vidyalaya Samiti and the higher departmental authorities of the Navo daya Vidyalaya Samiti finding truth in the allegations of mismanagement transferred the Principal and other teachers trora Jawahar Navodyaya Vidyalaya, Meja Allahabad to elsewhere.

16. Now the question, which further deserves immediate attention and decision, is whether the future of the meritorious students, who got admission in the institution after passing in the competition, can be left at the mercy of the educational authorities and the Navodaya Vidyalaya Samiti, who during the period of more than eight months have not been able to take any decision for reopening the institution and starting the teaching work in the institution without delay. The attitude of the present principal, Dr. Mohd. Kaleem, who was directed to comply with the direction of the District Magistrate dated 13-3-1995 within (sic) of one week and instead of complying with the directions District Magistrate, who is over-all Incharge of the matters of Navodaya Vidyalaya. he avoided the same, is not satisfactory. The tenor of the counter affidavit shows that Dr. Mohd. Kaleem does not want to take any responsibility on his shoulders nor is he willing to comply with the directions of the District Magistrate even after the orders of the High Court and prayed that directions be issued to the Navodaya Vidyalaya Samiti Lucknow, on whose directions he may be in a position to comply with such orders. Such attitude of Dr. Mohd. Kaleem is highly improper and

deserves to be taken serious note of.

17. After considering the facts and circumstances and the allegations of the petitioners and the reply and stand of the respondents, I have no hesitation in arriving at the conclusion that since the inmates of the hostel were not supplied proper food and on their resentment the harsh and inhuman steps and action were taken by the then Principal, perhaps was the cause of resentment and some incident in the institution, for which the students alone cannot be blamed. The Principal of the institution instead of showing generous attitude and any attempt of passify-ing the grievances and solving the tangle, thought proper to lodge a report with the police and the said report on investigation was found by the police to be false and a final report was submitted. The educational authority i.e. the principal of the institution, who is the head to the institution is supposed to be disciplined, honest and a person of administrative capacity, who should have taken such measures to passify the situation but unfortunately he failed to do so and his associates who were helping him in such mishandling and mismanagement now stand transferred from Navodaya Vidyalaya Meja district Allahabad.

18. Now from the record it is apparent that the District Magistrate also directed the principal of the institution to restart the school and provide facilities to the students-inmates of the hostel. It was highly improper and misconduct on the part of Dr. Mohd. Kaleem not to have complied with the directions of the District Magistrate. His attempt not to comply with the directions and the shelter taken that it is only the Navodaya Vidyalaya Samit Lucknow, who may issue directions is also not warranted in the present set of facts. I in these circumstances consider it necessary that this Court should take action immediately and issue a writ of mandamus directing the Principal Mohd. Kaleem to start teaching work in the institution within a week from the date of receipt of a certified copy of this order and permit all the students including those mentioned in Annexure 1 and 2 to the writ petition to join their classes. They shall be provided fooding and clothing and all other such facilities which they were getting under the scheme of the Ministry of Human Resources Development. The notice to all such students for coming to the institution for study be issued forthwith, within the said period of one week.

19. While allowing the writ petition and issuing a wrist of mandamus directing the Principal of the Jawahar Navodaya Vidyalaya, Meja Khas, Allahabad 1 consider it proper to issue a dirction to the respondents Nos. 1 to 3 also that such benevolent schemes are not only to be framed but they require some vigilant eye also on such institution time to time. They require vigilant eye of the high-up of the department, who should see and watch that the fund provided by the Government for the students are not misutilised at the hands of unscrupulous principal and teachers. This can be done only by surprise inspections of such educational institutions. If If found that the quality of food and clothing is inferior quality the higher authorities should take action departmentally also against such erring authorities.

20. With these observations the writ petition is allowed. The parties shall bear their own costs.

21. Petition allowed.