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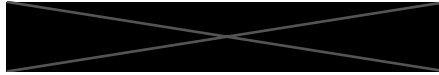
WP-22258-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

WRIT PETITION No. 22258 of 2025



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THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Jayesh Gurnani - Advocate for petitioner.**Dr. Amit Bhatia - Govt. Advocate for respondents/State.**Shri Tarang Chelawat - Advocate for respondent No.5.*

ORDER

(Reserved on :- 09.09.2025)

(Pronounced on :- 09.10.2025)

By this petition preferred under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:-

"a. Directions/order may kindly be passed and the Respondent 3 and 4 may kindly be directed to ensure the strict compliance of the order passed by the Respondent no. 2 Board.

b. Respondent no. 5 may kindly be directed to cancel the termination of Master (ward of the Petitioner) from the school and to permit him to attend the classes of 10th.

c. The Respondent no 2 and 5 may kindly be directed to take penal action against the authorities of the Respondent no. 5 School in view of provisions of Juvenile Justice (Care and Protection of Children) Act 2015.

d. The Respondent no.1 may kindly directed to take appropriate action against the Respondent no 3 to 4 for noncompliance of the orders/ directions of Respondent no 2.

e. To allow the petition with costs.

f. Any other relief, as the Hon'ble Court may deem fit, also be granted to the Petitioner."



02. As per the petitioner, his son was a student of Class 9th in respondent No.5 school which is affiliated to ICSE/ISC Board. On 04.02.2025 petitioner received a telephone call from office of the school and when he reached there he was informed that his son along with two fellow students had created a page in social media platform Instagram in the name of school and had posted memes of teachers. Petitioner's son was also called in the office of the director where he admitted his mischievous act and pleaded apology with promise not to repeat any such kind of act in future. Petitioner also tendered his apology to the school and staff. He was then asked to take his son home and was told that he would receive further directions soon. When petitioner reached home, his son showed him a letter given by the school staff to him which was a Transfer Certificate with bad character without any signature and seal but showed the intention of the school to expel him. On 11.02.2025 petitioner was telephonically informed that his son will only be permitted to appear in annual examination of Class 9th but will not be permitted to attend the classes and would also not be permitted further studies in the school from class 10th onwards. The petitioner submitted representation on 11.02.2025 through email to the Principal of the school for considering the case of his son sympathetically. The school responded reiterating the stand taken by it earlier.

03. On 13.02.2025 the petitioner again sent an email to the school to permit his son for further studies which was refused on 17.02.2025 by an email. The petitioner was also sent a letter dated 17.02.2025 in which it was



stated that his son is being terminated from the school and shall be allowed to appear in the final examinations only and till then he would be suspended from the school. Being aggrieved, the petitioner submitted representation to respondent No.2, M.P. State Commission for Protection of Child Rights which took cognizance of the matter. Subsequently, a team comprising members of respondent No.2 and the Collector, respondent No.4, visited the school and issued an order on 03.04.2025 not to terminate petitioner's son from the school and also directed the school for counselling the children. Despite the same, the school did not permit his son to join the school on which respondent No.2 directed for action to be taken in the matter. His son appeared and cleared the Class 9th examination but on 17.04.2025 an email was received from the school informing the petitioner that it is not accepting the decision of respondent No.2 and asked him to collect the marksheet as well as the Transfer Certificate of his son. The school is neither accepting the order passed by respondent No.2 nor the apology of the petitioner and his son hence this petition.

04. Learned counsel for the petitioner has submitted that the school was bound to follow the order dated 03.04.2025 passed by respondent No.2 which is an instrumentality of the State. Respondents No.3 and 4 are also not ensuring compliance of the order. The acts of respondents No.3 and 5 are in violation to Article 21-A of the Constitution of India, Section 16 of the Right to Education Act, 2009 and also Section 24 of Juvenile Justice (Care and Protection of Children) Act, 2015 (the 'Act, 2015') which provides for protection of a child from any kind of disqualification even if he is found



guilty of an offence by Court of law. The petitioner as well as his son have already tendered apologies to the school as well as before members of respondent No.2, Board. Petitioner's son has already been punished for his acts by suspension for entire remaining educational session. Further punishment of termination from school will ruin his future and would also adversely effect his mental state which would amount to cruelty upon him. He is not mentally developed enough to understand the gravity of his mischievous acts. He had already been enrolled for examination of Class 10th with respondent No.5 school and if he is to be shifted to some other school, it will be difficult to get him registered for examination of Class 10th in current educational year. It is hence submitted that the petition be allowed.

05. Reply has been filed by respondent No.5 school and learned counsel for respondent No.5 has submitted that the school authorities observed that three students including petitioner's son were operating an Instagram page wherein personal photographs of teachers were used without permission. Derogatory memes using abusive language and communal references targeting a teacher of a particular faith were posted. School's official image and name was misused. Revengeful, vulgar and rebellious attitude was shown against the institution. The memes were put to create insecure atmosphere for teachers and in the chats, the students were having a conversation to misuse photos of other girls and boys of the school. A disciplinary committee was constituted comprising senior faculty and administrative members to investigate the matter during which all three students admitted their misconduct and offered a written apology. All of



them were permitted to appear for final examination. However, it was clearly communicated to their parents that they shall not be permitted to continue in the next academic session in view of seriousness of their conduct. To ensure that petitioner's son can get admission in any other good school, there were no bad remarks given on his Transfer Certificate which clearly shows that the school does not aim to disturb his future. The teachers have categorically stated not to allow the students in the school considering their misconduct and effect on their moral and influence on other students. Allowing indisciplined students after repetitive warnings and counselling would set a bad example for other students. Petitioner was previously informed on multiple occasions over past two years about disruptive behavior of his son including bullying, aggression towards peers and insubordination. Counselling efforts were regularly undertaken but in vain. The petitioner has been using his influence of being a journalist to ensure that his son gets back in the school. School's decision is not punitive but administrative and disciplinary in nature and does not amount to expulsion but non-renewal of enrollment after academic year, post disciplinary misconduct. Private, unaided institutions are entitled to regulate admission, discipline and administration. It is further submitted that the Commission for Protection of Child Rights Act, 2005 (the 'Act, 2005') does not make any recommendation of the Commission binding upon the school which is merely recommendary in nature and upon considering the overall facts of the case, the school has decided not to continue petitioner's son in the school. The school has been continuously writing to the petitioner to collect the Transfer Certificate but



he has not done so. Reliance has been placed on the decision of the Karnataka High Court in *Manisha Sharma Vs. Karnataka State Commissioner for Protection of Child Rights and Another*, 2023 SCC Online Kar 6, of the Kerela High Court in *Sebastian T. Joseph and Another Vs. Kerela State Commission for Protection of Child Rights and Others* 2017 SCC Online Ker 21669, of the Madras High Court in *V.S. Babaramesh Vs. Central Board of Secondary Education and Others*, 2015 SCC Online Mad 5726 and of the Apex Court in *T.M.A. Pai Foundation Vs. State of Karnataka* 2002 (8) SCC 481 and *P.A. Inamdar Vs. State of Maharashtra*, 2005 (6) SCC 537.

06. I have considered the submissions of the learned counsel for the parties and have perused the record.

07. Heavy reliance has been placed by the petitioner upon the order dated 17.04.2025 passed by M.P. State Commission for Protection of Child Rights to contend that the school is bound to comply with the same. Under the Act, 2005, Commissions have been established in all the States and legal effect of their orders has been under consideration before various Courts. While dealing with an order passed by Karnataka State Commission for Protection of Child Rights, the Karnataka High Court in *Manisha Sharma (Supra)* has held that the Commission is an advisory body and it can frame or suggest policy decisions with respect to child's rights but the Act does not empower the Commission to adjudicate any lis between two parties. It was held as under:-

"10. Suffice it to note that the Commission for the Karnataka State Commission for the Protection of Child Rights is a statutory authority



established under the 2005 Act. Section 13 of the Act enumerates the functions of the Commission. A perusal of the same makes it very clear that the Commission is an advisory body and it could frame or suggest policy decisions with respect to the child's rights to the State Government. The Act does not empower and conferred with any power of adjudication or to decide adversarial proceedings. The commission has no power to adjudicate any lis between two parties."

08. Similarly, the Kerala High Court in **Sebastian T. Joseph (Supra)** while dealing with a similar situation has held that the power of the Commission is only recommendary in nature. It was held as under:-

"24. Therefore, it can be seen that, if at all any power is conferred on the 1st respondent, the same is only recommendatory in nature, recommending to the Government for grant of such interim relief to the victim or the members of his family. That apart, the definition given to "child rights" in Sec.2(b) and the reference to the relevant provisions of Ext.P16 of United Nations Conventions, I am of the considered opinion that, the inquiry of the 1st respondent contemplated under Act, 2005 is confining to the areas referred to in Ext.P16, which will not in any manner take care of a situation like the one on hand, in respect to the maintenance of the discipline in the school. The Principal of the school is the guardian of the school, who is vested with powers to take necessary action to maintain the discipline and morality in the school, which cannot be interfered or tinkered with by the 1st respondent. So much so, it is a well recognised proposition in law, as laid down by the Apex Court in various judgements and specifically in the following judgements, Vice Chancellor, Guru Ghasidas University v. Craig Mcleod [(2012) 11 SCC 275], Director (Studies) v. Vaibhav Singh Chauhan [(2009) 1 SCC 59] and Varanasaya Sanskrit Viswavidyalaya v. Rajkishore Tripathi (Dr.) [(1977) 1 SCC 279].

28. After evaluating the submissions made across the Bar, I am of the considered opinion that, the 1st respondent did not have any power to pass an interim order directing the school to permit the 2nd respondent to continue with the classes, and comply with such consequential actions. I reiterate that the power conferred under Sec.14 of Act, 2005 is only in respect of the power under the Code of Civil Procedure while conducting enquiry during the trial proceedings. In that view of the matter, Ext.P15 interim order passed by the 1st respondent has no manner of legal sustenance, the same being arbitrary and illegal and accordingly exercising the powers conferred under Article 226 of the Constitution of India, I quash Ext.P15 order passed by the 1st respondent dated 03.10.2017, and the writ petition is disposed with the above observations."

09. Thus, it is evident that a Commission constituted under the Act, 2005 only possesses power of making recommendation and giving



suggestions. It has no power of adjudicating any lis between two contesting parties and deciding adversarial proceedings. The contention of the petitioner that the school is bound to comply with the order passed by the Commission hence cannot be accepted. The said order can at best be regarded to be advisory or recommendary in nature, leaving it open for the school either to accept or not to accept the same.

10. In the available facts of the case, the school has taken a conscious decision that it would not accept the order passed by the Commission. Reasons have been given in detail for not accepting the order. For the discussion as made hereinafter, it cannot be said that the said decision of school is unjustified in any manner.

11. It has further been contended by the petitioner that the school has violated Section 24 of the Act, 2015 which provides for protection of a child from any kind of disqualification even if he is found guilty of any offence by a Court of law. However, the said Section and the Act, 2015 itself is wholly inapplicable to the facts and circumstances of the case. It is not a case where petitioner's son has been found involved in any crime. There is no criminal prosecution launched against him. Instead, disciplinary action has been taken against him. He has not been assaulted, abandoned, abused, exposed or willfully neglected to be assaulted, abandoned, abused or exposed in a manner likely to cause him unnecessary mental or physical suffering. The action taken by the school is on the basis of his indiscipline and is well within its rights hence it cannot be said that any wrong has been done upon petitioner's son. Likewise, the Right to Education Act, 2009 and M.P. Bal



Sanrakshan Niti, 2020 relied upon by the petitioner are also not applicable in the present case since they do not contain any provision dealing with the issue as raised herein.

12. The legal principle that Principal of the School is its guardian who is vested with powers to take necessary action to maintain the discipline and morality in the school is well recognized proposition of law as has been laid down by the Apex Court, amongst others, in *Vice-Chancellor, Guru Ghasidas University Vs. Craig Mcleod*, 2012 (11) SCC 275 and *Director (Studies) Vs. Vaibhav Singh Chouhan*, 2009 (1) SCC 59. The Madras High Court in *V. S. Babaramesh (Supra)* has further elaborated the said principle as under:-

"17. The judgments relied on by the learned counsel appearing for the third respondent lay down the proposition that it is the primary responsibility of the Head of the Institution to see that discipline is maintained in the college and after placing reliance upon the decision in Unni Raja v. Principal, Medical College, Trivandrum [AIR 1983 Ker 200] which has held that the essence of the matter is that 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 and 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 and to deny his right to the head of the institution would be 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.

19. In Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi [(1991) 2 SCC 716], it has been held that the power of judicial review in case of student indiscipline is very limited and in such cases, the High Court does not sit in appeal over decisions of the school authorities.

20. In A. Maharaja v. Anna University [(2009) 4 MLJ 1048], the facts of the case read that the petitioners along with their friends went out of the college at about 10.00 a.m. on a particular day and returned at 3.00 p.m. and they have



signed in the outgoing and incoming registers maintained by the hostel warden to attend a treat given by one of their friends for a birthday party and since they came later, the mess people refused to serve food and there was a wordy quarrel and the mess master came there and directed the workers to give food and they had their lunch. When the warden came to the mess, he seized their cellphones which contained a photograph saying "cheers" while having drinks. The petitioners therein were suspended and immediately all of them gave letters of apology stating that such incidents would not happen in future. The parents of the students were also summoned and they met them and they were instructed to advise their wards properly and later on the Principal had issued Transfer Certificates with an endorsement "Discontinued" and it was put to challenge in the said writ petition. The learned Judge, while dealing with the said case, also placed reliance upon the decision in Headmaster, Polikav High School, P.O. Edakkulam Quliandy v. Murali A. [AIR 1995 Ker 21] has observed as follows:

"From the above judgments, it is well settled that if a student, does not maintain discipline which is expected from him, it is not required for the college to retain him in the college. Insofar as the procedure to be followed in the matter of conducting an enquiry into misconduct or indiscipline of a student, Courts have consistently held that it is not required to have a detailed enquiry as that of a departmental proceeding in service matters. It is the consistent view of the Courts that the power of the educational institutions should not be disturbed in trying to maintain discipline in the institutions and it is suffice, that there is substantial compliance of the principles of natural justice."

21. This Court can take judicial notice of the fact that adherence of discipline among students has become a casualty and a teacher practically cannot do anything to discipline a student. The judgments cited above lay down the proposition that the discipline to be enforced in an educational institution is very important as it shapes the career and future welfare of the students. Insofar as compliance of principles of natural justice is concerned, it has been held that a pupil against whom disciplinary action has been taken by the head of an educational institution cannot insist that principles of natural justice should be strictly complied with and there is a substantial difference between an enquiry in a disciplinary action against a civil servant and that in a disciplinary action against a pupil of an educational institution."

13. Since the present is also a case of student indiscipline, power of



judicial review is very limited and this Court cannot sit in appeal over decision of the school authorities and the jurisdiction is limited to considering the fact whether the decision taken by the school is arbitrary or illegal.

14. For the purpose of demonstrating the acts of petitioner's son on the basis of which action has been taken against him, screenshots, chats and extracts of Instagram postings have been submitted by learned counsel for respondent No.5 in a separate sealed cover as it may hinder his future and may effect his further studies. The said envelope has been opened and examined by this Court and the contents thereof perused and after passing of this order are being returned to the counsel for respondent No.5.

15. A perusal of the material so produced shows that the conduct of petitioner's son has been of high indiscipline. He has created memes of one of his own teachers on religious lines and has posted about him along with his photograph with a caption which is quite derogatory in nature and tends to offend his religious feelings and sentiments. The same uses abusive language and communal references targeting teacher of a particular faith. The photograph of the teacher was used without permission. The school's official image and name was also misused in violation of the norms. The tone and content of the post reflects a revengeful, vulgar and rebellious attitude. The chats which have taken place on the basis of the said post are highly abusive in nature. There is also a photograph of another teacher of the school along with a dog trying to depict their similarity which is wholly unacceptable. A lady teacher has been shown as a Spiderwoman flying in the



air. Another lady teacher is shown as Iron Lady and one teacher has been called to be a real male. Fun has been made of a lady teacher on the basis of her physique. Another lady teacher has been shown to be "Bitter Gourd" and so on and so forth.

16. It is clear that there is not just one meme or post but there are a series of the same hence the acts of petitioner's son cannot be said to be a stray incident. It shows a pattern of behavior. The posts show use of abusive language against the school and also an attitude of taking revenge from the school against some of its action. Names of some of the girls of the school are also found in the chats and suggestion has been given for maligning them.

17. From the material produced by respondent No.5, it cannot be said that acts of petitioner's son are that of a misguided child or a child who is not able to understand the seriousness of his mischievous acts. He, on the contrary, shows sufficient mental development enough to understand the gravity of his acts hence the apology tendered by him and the petitioner cannot come to his rescue. In any case the apologies which have been tendered are qualified in nature and not unequivocal. The action which has hence been taken by the school cannot be said to be illegal or arbitrary in any manner looking to the gross indiscipline of petitioner's son.

18. Along with the reply, respondent No.5 has also filed a copy of Transfer Certificate of petitioner's son. This Certificate has not been taken by the petitioner or his son and in the reply, respondent No.5 has categorically stated that it is ready and willing to hand over the same to the petitioner. It is



a simple Transfer Certificate without any comment on character of petitioner's son hence the apprehension of the petitioner that he would find it difficult to get admission in some other school is baseless. In the Transfer Certificate, it is stated that petitioner's son was admitted to the school with a good character. The earlier Transfer Certificate in which he was shown to be of a bad character has been deleted. There is now no reason as to why the petitioner and his son should not receive the certificate from the school and take admission in some other school. The earlier decision of termination of petitioner's son from the school in view of this Transfer Certificate hence pales into insignificance and is not an impediment for him to seek admission in some other school.

19. In view of the aforesaid discussion, it cannot be said that respondent No.5 school has committed any illegality in deciding not to continue petitioner's son for studies in Class 10th and in issuing the Transfer Certificate to him. The petition is consequently found to be devoid of any merits and is hereby dismissed.

(PRANAY VERMA)
JUDGE

Shilpa