

NATIONAL COMMISSION FOR MINORITY
EDUCATIONAL INSTITUTIONS

Case No.1645 of 2009

In the matter of :

St. John's High School

Sector 26,

Chandigarh

Through its Principal-cum-Secretary

Of the Managing Committee, Mrs. Kavita C. Dass

Chandigarh

... Petitioner

Versus

1. The Chandigarh Administration

Through the Advisor to the Administrator

UT Secretariat

Sector 9, Chandigarh

2. The Home Secretary-cum Secretary Education,

Chandigarh Administration

UT Secretariat

Sector 9, Chandigarh



3. The District Education Officer
Chandigarh Administration,
Sector 9, Chandigarh

4. Mr. T.K. Goyal
#147, Sector 19-A, Chandigarh

5. Mrs. Meeta Goyal
#147, Sector 19-A, Chandigarh

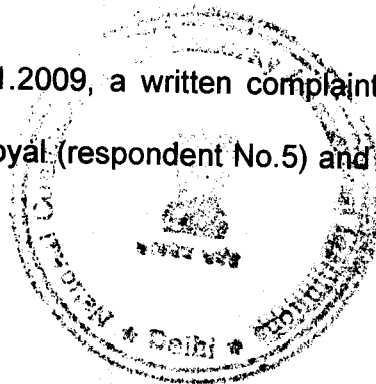
6. The Director Public Instruction (Schools)
Chandigarh Administration
Sector -9
Chandigarh

... Respondents

ORDER
(Delivered on 20th day of December, 2012)

Justice M. S. A. Siddiqui, Chairman

On 3.11.2009, a written complaint was received by the school from
Mrs. Meeta Goyal (respondent No.5) and Mr. T.K. Goyal (respondent No. 4),



parents of Eash and Eshan Goyal studying in class 7 B of the petitioner school, against the Art Teacher, Mr. Michael Angelo Francis. Despite repeated requests from the petitioner school, Mr. T.K. Goyal neither met the Principal nor produced any evidence against the said teacher. However, a copy of the complaint was served upon the said teacher, directing him to submit his para-wise reply. Pursuant to the said direction, the said teacher faxed his reply, denying all the allegations made against him. Thereafter, he proceeded on leave, providing an opportunity to the school management to conduct a free and fair enquiry against him.

On 22.1.2010, Mr. R.S. Sangwan filed a complaint against Smt. Kavita C. Das, Principal of the school and Mr. Michael Angelo, Art teacher leveling following charges against them:-

- (a) That porn sites were being shown to the students by the Art Teacher Mr. Machael Angelo Francis;
- (b) That the children of the school, who are in tender age are being taught/made to compete to hack sites, log in accounts, internet sites of others and for the purpose and to teach this nefarious exercise, Principal Smt. Kavita C. Dass is facilitating and encouraging the young children for hacking all computer sites;

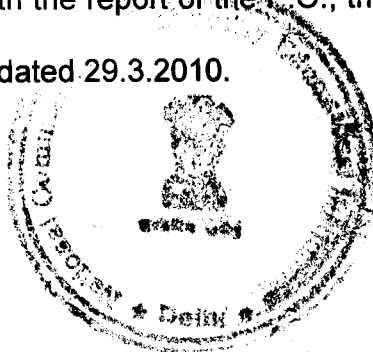


(c) That another illegality of piracy of software is being carried out under the instructions of the Principal Smt. Kavita C. Dass, the software which cannot be subsequently derived or used elsewhere or generated subsequently is being pirated within the school for children thereof to carry out the said programmes;

(d) That the computers have been purchased in the school by the Principal Smt. Kavita C. Dass without asking for / inviting quotations and as such she usurped and weaned away funds required for the purpose of propagation and carrying out of educational activities;

(e) That for the sake of photography even each and every student is required to make requisite payment to the school but the Principal Smt. Dass does not maintain any such specific account for the same.

The complaint was thoroughly enquired by the Police Inspector Gurmukh Singh and the aforesaid allegations made against the Principal Smt. Dass and the Art Teacher were found to be false and fabricated. Inspector Gurmukh Singh has specifically held that the Art Teacher has nothing to do with the computer system of the school. The said report was submitted to the Dy. DA, who concurred with the findings recorded by the P.I. Gurmukh Singh and forwarded it to the SSP vide orders dated 25.3.2010. Agreeing with the report of the P.O., the SSP ordered for closure of the case vide orders dated 29.3.2010.



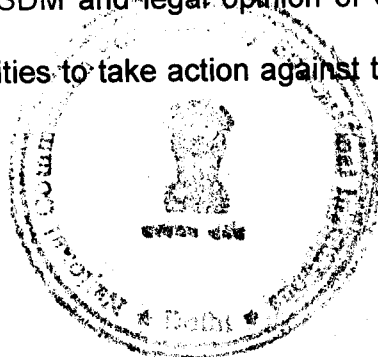
Mr. R. S. Sangwan was working as Maintenance Faculty with the petitioner school and his services were terminated by the Principal, Smt. Kavita C. Dass. On 10.12.2009, he filed a complaint against the Principal Smt. Dass and the Art Teacher. The complaint was forwarded to the ES/HS with the recommendation to send it to the SSP for inquiry and action. Thereupon, he directed that a copy of the complaint be sent to the management of the school for enquiry and report within 3 weeks failing which, the matter will be referred to the Police. By the memo No. 193-DPI-UT-A4-24 () 2001 dated 8.1.2010, the Director of Public Instructions directed Sh R.S. Sangwan to file complaint to the Police, if he so desired. Thereafter, Sh. R. S. Sangwan approached the PMO's office and by the Memo No. 16/3/2010-PMP2/115192 dated 22.1.2010, the Advisor to the Administrator UT Chandigarh was directed to take appropriate action on the letter dated 2.1.2010 of Sh. Sangwan.

Shri R.S. Sangwan had also sent a copy of his complaint dated 2.1.2010 against the Principal and the Art Teacher to the Home Secretary, Chandigarh Administration. Thereupon, the Home Secretary, Chandigarh Administration directed the I.G.P., U.T. Chandigarh to enquire into the matter and to send his report within 7 days. By the memo No. U-13034/8/2010 CPD dated 30.3.2010, Dy. Secretary, Ministry of Home Affairs, Government of India, directed the Advisor to the Administrator, Chandigarh Administration, to



send the enquiry report against the Principal, Smt. Dass at the earliest. Copy of the said memo was also forwarded to the Home Secretary, Chandigarh Administration with a request to expedite the report. Pursuant to the said directions, the Director of Public Instruction, Chandigarh Administration intimated Deputy Secretary to the Government of India, Ministry of Home Affairs that on examination of Sh. R.S. Sangwan's complaint, he was advised to file a complaint with the Police if he so desires. (vide memo No. 318-DPI-UT-A4-24 () 2001/279 dated 12.5.2010.

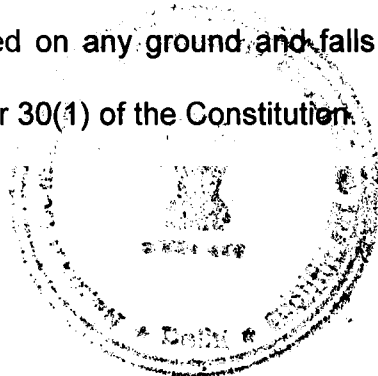
It is alleged that even on an earlier occasion in a case where one of the teachers of the school was alleged to have used corporal punishment on a student, management of the petitioner school was not allowed to conduct its own inquiry against the teacher. Instead the Home Secretary of the Chandigarh Administration (respondent No. 2) directed the SDM (East) UT Administration to hold the inquiry. The said magisterial enquiry was held in the school premises. On 27.7.2009, the SDM (East) Chandigarh submitted his report to the respondent No. 2. Thereafter, the respondent No. 2 sought the legal opinion from the Senior Standing Counsel, Chandigarh Administration, who opined about registration of a criminal case under section 323/352 IPC against the said teacher, besides termination of her services. On 29.7.2009, the petitioner school received a copy of the inquiry report of the SDM and legal opinion of Sr. Standing Counsel, directing the school authorities to take action against the said teacher as a result whereof



the petitioner school had no option but to dispense with the services of the said teacher.

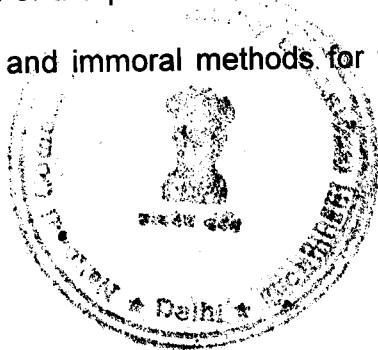
It is also alleged that the respondent No. 2 made it a point to regularly get alleged irregularities in the petitioner school highlighted in the press. On these premises it is alleged that the respondents attempted to take over the administration of the petitioner school by harassing its Principal and other staff and also by intervening in the internal management of the petitioner school and thereby blatantly violated the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

Respondent Nos. 1 to 3 and 6 denied the petitioner's case and raised a preliminary objection about non-maintainability of the petition on the ground that the petitioner is guilty of 'suppressio very and suggestio falsi'. It is alleged that as per inquiry report of the respondent No. 3, the Principal Smt. Kavita C.Dass was found guilty of abetting cyber crime in the school by organizing a competition, "to hack the server and login accounts of other members and to hack the network". The Art Teacher of the school, Mr. Michael Angelo Francis was also found guilty of promoting such obscene lyrics as "she fucking hates me" and thereby polluting young impressionable minds. According to the respondents, such blatant and shocking obscenity cannot be justified on any ground and falls outside the domain of the right guaranteed under 30(1) of the Constitution.



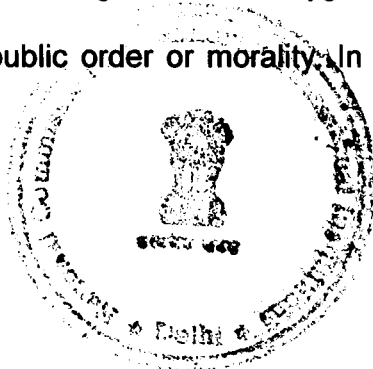
It is alleged that instead of initiating any action against the Principal and the Art Teacher, the U.T. Administration merely sent the inquiry report to the management for taking appropriate action. Since the land for constructing the school building was allotted at a very concessional rates by the Chandigarh Administration and provisional recognition was also granted to the petitioner school in terms of the Punjab Education code, the petitioner school cannot claim exemption from the rules and regulations made by the Chandigarh Administration in furtherance of its school policy. It is also alleged that initiation of a magisterial inquiry against a teacher of the school, namely, Ms. Reema Talwar cannot be faulted on any legal ground. It is further alleged that the attitude adopted by the management of the school by not participating in the inquiry against the Art teacher Mr. Michael Angelo Francis and entering into unnecessary correspondence knocks the bottom out of the petitioner's case.

It is further alleged that in Ms. Reema Talwar's case, the management of the petitioner school had acted upon the directions of the Chandigarh Administration and terminated her services but in the case of the Principal and the Art Teacher, the management is adopting an entirely different attitude without any plausible reason thereof. According to the respondents, the management of the petitioner school cannot be allowed and perpetuate illegal, unethical and immoral methods for teaching the students under the



garb of the constitutional protection enshrined in Article 30(1) of the Constitution. The petitioner school has not approached the Commission with clean hands and the complaint has been filed just to create undue pressure on the Chandigarh Administration, which has acted purely in the interest of education. No legal right of the petitioner has been infringed and the inquiry report has been sent to the petitioner school for taking appropriate action in the matter.

The respondent Nos. 4 and 5 resisted the petition on the ground that when disturbing facts like showing pornography, use of inappropriate language encouragement of other obscenity, teaching of vulgarity, cyber crime etc was brought to their knowledge they had no option but to approach the Chandigarh Administration by making a written complaint. On 11.11.2009, the respondents handed over incriminating evidence against the Art Teacher, to the District Education Officer as they had a valid apprehension about the possibility of tampering with the evidence or interpreting it otherwise, if the same was handed over to the management of the petitioner school. The complaint was duly inquired into by the Chandigarh Administration and the inquiry report was sent to the management of the school for taking appropriate action against the Principal and the Art teacher. It is alleged that a minority educational institution cannot claim immunity against laws relating to health, hygiene, labour relations, social welfare legislations, public order or morality. In other words, a minority educational

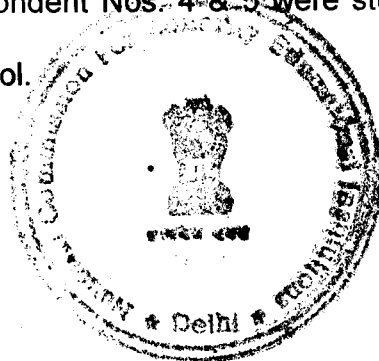


institution cannot take the protection of Article 30(1) of the Constitution to shy away from the process of law. Strong reliance has been placed on the decision rendered by the Apex court in St. Stephen College's vs. the University of Delhi AIR 1992 SC 1630, T.M.A. Pai Foundation vs. the State of Karnataka (2002) 8SCC 481 and PA Inamdar vs. the State of Maharashtra (2005) 6 SCC 537 in support of their said contentions.

It is also alleged that the Art Teacher with the active connivance of the school administration is attempting to settle scores with the respondents, who had lodged a genuine complaint in the interest of their children.

It is relevant to mention that the following facts have not been disputed by the parties:-

- (i) That Smt. Kavita C.Dass is the Principal and Shri Michael Angelo Francis is the Art Teacher of the petitioner school.
- (ii) That Smt. Meeta Goyal is the wife of Shri T.K. Goyal, who is a PCS Officer of the Chandigarh Administration.
- (iii) That at the relevant time, Eash and Eashan Goyal, sons of the respondent Nos. 4 & 5 were studying in class VII-B of the petitioner school.



- (iv) That on receiving the complaint dated 22.7.2009 against a teacher of the petitioner school, namely Ms. Reema Talwar, charging her to have inflicted corporal punishment on a student, the management of the school initiated an inquiry against her;
- (v) That on 23.7.2009, the petitioner school received a letter from the SDM (East) UT Chandigarh stating therein that she had been entrusted to hold an inquiry against Ms. Reema Talwar, by the respondent No. 2;
- (vi) That on 24.7.2009, the said inquiry was held by the SDM (East) in the school premises and on 27.7.2009, the SDM (East) submitted her inquiry report to the respondent No. 2 holding the said teacher guilty of slapping Master Akshay Singh, a student of Section III of the petitioner school ;
- (vii) That the respondent No. 2 sought legal opinion of Sr. Standing Counsel of the Chandigarh Administration on the inquiry report of the SDM(East);
- (viii) That by the letter dated 29.7.2009, Shri Anupam Gupta, Sr. Standing Counsel advised respondent No. 2 to get a case registered against

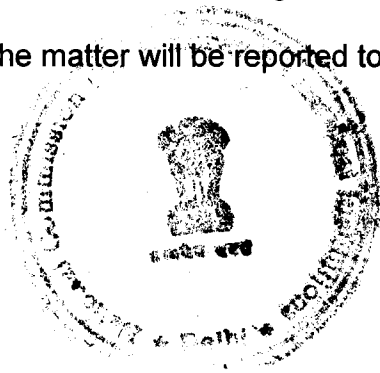


Ms. Reema Talwar u/s 323/352 IPC and also to get her services terminated by the School management;

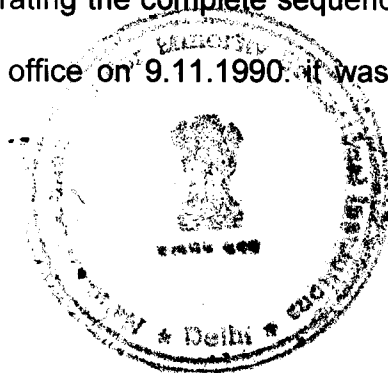
- (ix) That on 29.7.2009, the Principal of the petitioner school received a letter from the Director, Public Instructions (Schools), Chandigarh alongwith the Enquiry Report of the SDM (East) as well as the legal opinion of Sh. Anupam Gupta, Advocate, directing her to take action against Ms. Reema Talwar under intimation to him;
- (x) That pursuant to the said directions of the Director, Public Instructions (Schools), management of the petitioner school terminated the services of Ms. Reema Talwar;
- (xi) That on 3.11.2009 a written complaint was received from the respondent Nos. 4 and 5 against the Art Teacher, Mr. Michael Angelo Francis;
- (xii) That on the same day i.e. 3.11.2009, the respondent Nos. 4 & 5 were requested to meet the Principal and produce the evidence in support of their complaint vide letter dated 3.11.2009 but despite receipt of the said letter they (respondent No. 4 & 5) neither met the Principal nor produced any evidence before her;



- (xiii) That on 5.11.2009 all the news papers of the Chandigarh carried news items about the complaint against Mr. Michel Angelo Francis;
- (ix) That on 5.11.2009, the managing committee of the petitioner school decided to entrust the inquiry to Bro. A.F. Pinto, Director, Education, CCBI on production of sufficient evidence by the respondent No. 4;
- (x) That the respondent No. 4 did not submit any evidence before the Managing Committee and on 6.11.2009, he sent a letter to the Managing committee stating therein that he didn't have any faith in the conduct of a fair inquiry by the school authorities. He also intimated that the respondent No. 2 had already entrusted the inquiry to the Director of Public Instruction (Schools), Chandigarh Administration;
- (xi) That on 6.11. 2009, itself the Press carried news items relating to service of a notice on the school administration by the UT Administration in connection with the aforesaid episode;
- (xvii) That on 6.11.2009, the District Education Officer, Chandigarh sent a letter to the School Administration directing it to submit its detailed comments within two days in respect of the complaint of the respondent Nos. 4 & 5 against Mr. Michael Angelo Francis, failing which the matter will be reported to the higher-ups;



- (xviii) That on 9.11.2009, the School Administration responded to the letter dated 5.11.2009 of the District Education Officer, Chandigarh by intimating the said officer about entrustment of inquiry to the Inquiry Officer appointed by it;
- (xix) That Justice S.S. Sodhi, a retired Chief Justice was appointed by the School Administration to inquire into the complaint against Mr. Michael Angelo Francis;
- (xx) That on 10.11.2009, a news paper carried a news item about service of another notice on the School Administration by the District Education Officer, Chandigarh (respondent No. 3);
- (xxi) That on 10.11.2009, the School Administration received the letter dated 9.11.2009 of the District Education Officer (respondent No.3) directing the Principal and the Art Teacher to appear before him on 11.11.2009 at 10.30 a.m.;
- (xxii) That on 10.11.2009, itself the School sent a reply to the district Education Officer (respondent No. 3) intimating that a detailed letter narrating the complete sequence of events had been duly delivered at his office on 9.11.1990. It was also stated in the said letter that the



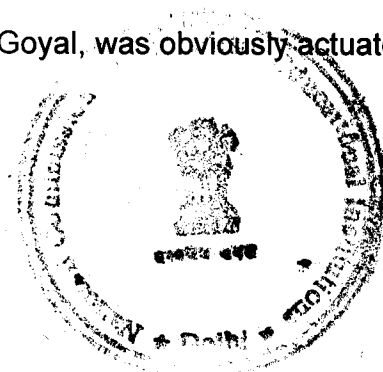
enquiry was underway and the school being a minority institution covered under Article 30(1) of the Constitution was free to administer the institution as it deems fit without any interference by the Chandigarh Administration;

(xxiii) That on 10.11.2009, a representation was also sent to the respondent No. 1 bringing all the facts to the notice of the respondent No. 1;

(xxiv) That rejecting the pleas of the school administration, the district Education Officer (respondent No. 3) proceeded with the inquiry against the Art Teacher;

(xxv) That the respondent No. 5 had challenged the appointment of Justice (Retd.) S.S. Sodhi by filing a Writ Petition No. 4404/2010, before the Punjab & Haryana High Court, which was disposed of by the orders dated 12.3.2010 granting liberty to approach the High Court, if no action is taken pursuant to the enquiry, in the event of the guilt of the teacher;

(xxvi) That Justice (Retd.) S.S. Sodhi exonerated the Art Teacher Michael Angelo Francis from the charges leveled against him holding that "the complaint made by the complainants, Mr. T.K. Goyal and his wife Mrs. Meeta Goyal, was obviously actuated by some ulterior motive, which is



wholly unbecoming for an officer belonging to the Punjab Civil Services" vide orders dated 28.3.2010;

It is alleged that harassment of the Principal Smt. Kavita C. Dass continued in the form of various complaints filed by Mr. R.S. Sangwan. In fact a complaint was made to the National Commission for SC/ST regarding discrimination being carried out against scheduled castes children and atrocities upon them. In addition, Shri Arvind Thakur, Chairperson, Global Human Rights Council, Chandigarh also made a similar complaint to the National Commission for SC/ST, New Delhi against Smt. Kavita C. Dass. These complaints were enquired into by the Sub Inspector, Police Station 26, Chandigarh and they were found false and baseless. The enquiry report was forwarded to the concerned authority by the Dy. Superintendant of Police, Ease Sub-Division, Sector 26, UT Chandigarh with the following endorsement:-

"Ref No.9908-R/W-SSP dt. 03.09.2010 R-2548/DSP/East dt.
07.09.10

**Subject : Discrimination against scheduled castes children
and atrocities upon them in St. John's High School, Sec-26,
Chandigarh (Reference attached)**



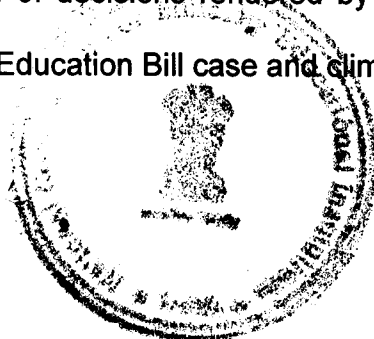
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Forwarded with the attached report of EO and SHO/PS-26, which is in detail. From the enquiries conducted so far, it is found that the allegations leveled in the representation regarding discrimination against Scheduled Castes students and atrocities upon them in St. John High School, Sec.26, Chandigarh are found totally false and baseless. It seems that Mr. Hemant Goswami, Mr. T.K. Goyal and Mr. R.S. Sangwan are intentionally creating false evidence against the school authorities to defame it for the reasons best known to them. Thus, the instant complaint may kindly be filed. However, if approved, we may obtain legal opinion as to whether any cognizable offence is made out against the complainants for creating false evidence and further supplying the same to various authorities for initiating legal action against the school authorities.

Submitted please.

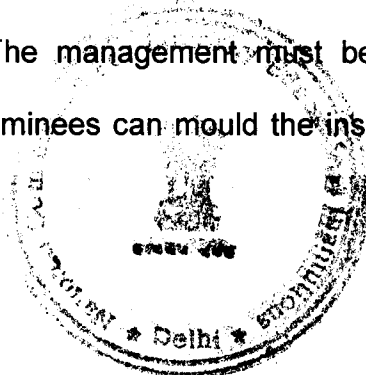
Dy. Superintendent of Police
East Sub Divn. Sec. 26
UT Chandigarh
Dt. 17.9.10"

A stream of decisions rendered by the Supreme Court commencing with the Kerala Education Bill case and climaxed by P.A. Inamdar vs. State of



Maharashtra (supra) has settled the law for the present. The whole edifice of case law on Article 30(1) of the Constitution has been bed rocked on Kerala Education Bill. According to the gist of the authoritative pronouncements of the Supreme Court, a benignly regulated liberty which neither abridges nor exaggerates autonomy but promotes better performance in the right construction of the constitutional provisions enshrined in Article 30(1). Such an approach enables the fundamental rights meaningfully to fulfill its trust with the minorities' destiny in a pluralist policy. The constitutional estate of the minorities should not be encroached upon, neither allowed to be neglected nor maladministered.

It has been held by the Supreme Court in St. Xavier's College, Ahmedabad vs. State of Gujarat AIR 1974 (1) SCC 717 that the minority institutions have the right to administer institutions and the right implies the obligation and duty of the minority institutions to render the very best to the students. In the field of administration it is not reasonable to claim complete autonomy. The right to administer is to be tempered with regulatory measures to ensure that the administration is efficient and sound and will serve the academic needs of the institution. Administration connotes management of the affairs of the institution. Autonomy in administration means right to administer effectively and to manage and conduct the affairs of the institution. The management must be free of control so that the founders or their nominees can mould the institution as they think fit and in



accordance with their ideas of how the interest of the community in general and the institution in particular will be best served.

The Supreme Court has held in T.M.A. Pai Foundation's case (supra) that the State of any statutory authority cannot under the garb or cover of adopting regulatory measures destroy the administrative autonomy of a minority educational institution or start interfering with the administration of the management of the institution concerned so as to render the right of administration of the institution concerned nugatory or illusory.

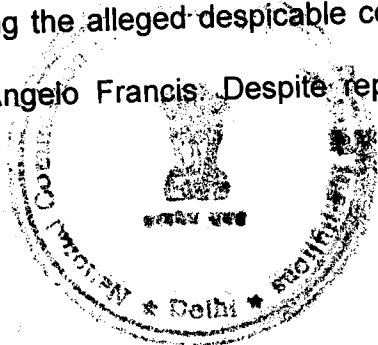
It is beyond the pale of controversy that by the orders passed by this Commission in Case No. 1535 of 2006, the petitioner institution has been declared as a minority educational institution within the meaning of Section 2(g) of the NCMEI Act. Needless to add here that as a minority educational institution, the petitioner institution is entitled to the constitutional protection guaranteed under Article 30(1) of the Constitution.

As stated above, on receiving a complaint against a teacher namely, Ms. Reema Talwar, the petitioner school initiated a preliminary inquiry but this inquiry was hijacked by the Chandigarh Administration. It is an admitted position that the SDM (East) was directed to hold an inquiry against the said teacher and on 24.7.2009, the inquiry was held by the SDM(East) in the school's premises which was a calculated assault on the administrative



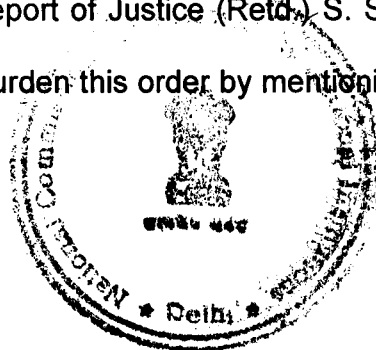
autonomy of the petitioner school. It is also undisputed that on the inquiry report of the SDM(East), the respondent No. 2 sought the legal opinion of the Sr. Standing Counsel to the Chandigarh Administration and acting upon the legal opinion of the Sr. Standing Counsel, the petitioner was directed to terminate the services of Ms, Reema Talwar. Pursuant to the said directions, services of Ms. Reema Talwar was terminated by the School Administration. This atrocious conduct of the respondent No. 2 directly stares into the face of Article 30(1) of the constitution. A feeble attempt has been made to canvass that since the Government of Punjab had allotted land to the petitioner school at concessional rates, the petitioner school is bound to carry out the directions of the Chandigarh Administration. This contention has to be rejected on the sole ground that allotment of land to the school at concessional rates does not annihilate the right guaranteed under Article 30(1) of the Constitution. Education, is undoubtedly, an obligation of the State but the State aid is not to be confused with the State control over academic policies and practices. We must resist, in the interests of our own democracy, the trend towards the governmental domination of the educational process.

It is an admitted position that on 3.11.2009, a complaint was received by the school from the respondent nos. 4 & 5 (parents of Eash and Eshan Goyal) regarding the alleged despicable conduct of the Art Teacher namely Mr. Machael Angelo Francis. Despite repeated reminders the respondent



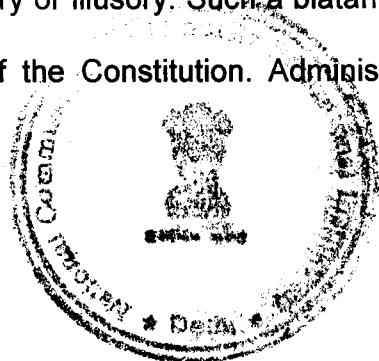
Nos. 4 & 5 neither met the Principal Smt. Kavita C. Dass nor produced any evidence before the school administration in support of the said complaint. On 5.11.2009, the managing Committee of the school decided to entrust the inquiry to Bro. A.F. Phinto, Director Education CCBI in respect of the said complaint. It is also undisputed that on 5.11.2009, the School Administration again requested the respondent No. 4 and 5 to produce the evidence in support of the said complaint and that on 6.1.2009, the school administration received a letter from the respondent Nos. 4 stating therein that he did not have any faith/trust in the conduct of a fair inquiry by the school administration and that the respondent No. 2 had already entrusted the inquiry to the Director Public Instructions (School) Chandigarh. It is also beyond the pale of controversy that the management of the school had appointed Justice (Retd.) S. S. Sodhi, a retired Chief Justice for holding the inquiry against the said Art Teacher and the respondent Nos. 4 & 5 had not fully participated in the inquiry. Learned counsel for the petitioner has strenuously urged that one man inquiry committee was constituted and comprised of a former Chief Justice of a High Court just in order to bring the element of the transparency and fairness and there was a complete adherence to the principles of natural justice.

Learned counsel for the respondent Nos. 4 & 5 has also attempted to jettison the inquiry report of Justice (Retd.) S. S. Sodhi on various grounds. We do not want to burden this order by mentioning all those grounds. Suffice



it to say that we cannot sit in judgment over the said inquiry report. In our opinion, constitution of the said inquiry committee is relevant only to show that the management of the school had held a domestic inquiry in respect of the complaint made against the Art Teacher.

The facts narrated above clearly indicate that while the school administration was in the process of initiating a domestic inquiry against its Art Teacher, the respondent No. 2, in total disregard and disrespect to Article 30(1) of the Constitution, violated the administrative autonomy of the petitioner school as a minority educational institution by entrusting the inquiry to respondent No. 3. The impugned action of the respondent No. 2 has the effect of displacing the management and entrusting it to the Government. The autonomy of a minority institution in administration is lost. On an exhaustive analysis of the aforesaid decisions of the Supreme Court, the principles which emerge are that nothing should be done to impair the rights of the minorities in the matter of their educational institution and the width and scope of provisions of the Constitution dealing with those rights are not circumscribed. The state or any statutory authority cannot under the garb or cover of adopting measures tend to destroy the administrative autonomy of the institution or start interfering willy nilly with core of the management of the institution, so as to render the right of administration of the institution concerned nugatory or illusory. Such a blatant interference is clearly violative of Article 30(1) of the Constitution. Administrative autonomy of a minority



educational institution cannot be curbed by the State Authorities. State authorities can interfere only if there is any maladministration in the minority institution. Any aberration of any member of the teaching or the non-teaching staff of an educational institution inviting disciplinary action does not fall within the domain of maladministration. Thus, the impugned actions of the respondent Nos. 2 & 3 had clearly violated the educational rights of the minorities enshrined in Article 30(1) of the Constitution.

As demonstrated above, a rein of terror was let loose by the Chandigarh Administration against the Principal Smt. Kavita C Dass and the Art Teacher Mr. Michael Angelo Francis. Even the print media was set into motion to browbeat and undermine the administrative autonomy of the petitioner institution. Here a question arises : why Smt. Kavita C. Dass and Mr. Michael Angelo Francis were hounded and harassed by the Chandigarh Administration. Answer to this question lies in the inquiry report dated 28.3.2010 of Justice (Retd.) S.S. Sodhi In his report Justice Sodhi has referred to the affidavit of Mr. Michael Angelo Francis, which throws light on the genesis of the whole trouble. According to Mr. Michael Angelo Francis, respondent Nos 4 & 5 were always actively involved in all activities of the school involving their children. Both the sons of the said respondents had joined the Music Band in 2008 and they had also performed on various occasions in the school. The respondents had been visiting the practice sessions and had been interacting also with Mr. Michael Angelo Francis, who



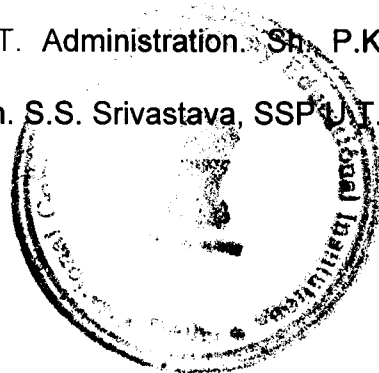
had informed them that their sons are very talented on the guitar and the keyboard and had singing skills. Mr. Michael Angelo Francis further stated that thereafter, the respondent Nos. 4 & 5 started approaching him to include 15 songs of their sons which he was unable to do. This annoyed them, which ultimately culminated in false accusations being made by them against him and the Principal. On a consideration of the evidence produced before him, Justice Sodhi concluded in his report dated 28.3.2010 that the complaint made by the respondent Nos. 4 & 5 was actuated by some ulterior motive, which is wholly unbecoming for an officer belonging to Punjab Civil Services.

It needs to be highlighted that on 12.8.2010, Smt. Kavita C. Dass filed an application before this Commission supported by an affidavit alleging her harassment by the respondent Nos. 2 & 3. Pursuant to the orders dated 12.8.2010, the Chairman of the Commission wrote a letter to the Administration of the UT, Chandigarh requesting him to restrain the said authorities from harassing Smt. Kavita C. Dass. It transpires from the record that even during pendency of the petition before this Commission, efforts were made to withdraw the provisional recognition of the petitioner school. It is beyond the pale of controversy that provisional recognition was due for renewal and an inspection was carried out by the Education Department on May 4, 2010. It is alleged by the petitioner that no major discrepancies were noticed by the inspecting team. However, 55 days after the inspection and during pendency of the case before the Commission, a notice was served on



the petitioner school on 28.6.2010, highlighting certain discrepancies noticed during inspection and threatening to withdraw the provisional recognition automatically without further notice on petitioner's failure to rectify the deficiencies notice by the inspecting team. It appears that the said notice is still hanging over the head of the petitioner school like a Damocles' sword.

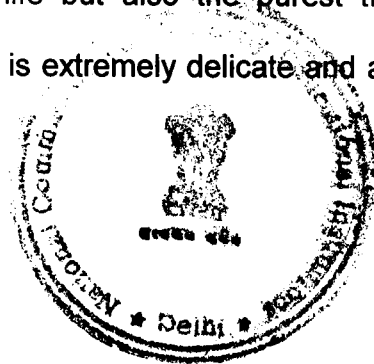
Learned counsel of the petitioner has submitted that on 29.6.2010, an English daily of wide circulation published a false and incorrect story "PMO wants porn in class case investigated again". On 30.7.2010, the Principal met the Resident Editor of the said Newspaper and enquired about the basis of such a false and misleading news item. The Principal was informed by the said Editor that basis of the news in question was the inputs provided by Mr. R.S. Sangwan. Learned counsel further submitted that Mr. R.S. Sangwan was a dismissed employee of the petitioner school and as such he had a grudge against the Principal and the management of the school. According to the learned counsel, the then Home Secretary (respondent No. 2), DEO (respondent No. 3), Mr. T.K. Goyal, Mrs. Goyal and Mr. R.S. Sangwan were co-conspirators and they actually conspired to harass the Principal and the Music Teacher Mr. Michael Angelo Francis. It is undisputed that Mr. R.S. Sangwan had sent a complaint to the Administration of the UT Administration as also to Sh. T.K.A. Nair, Principal Secretary of the P.M., Sh. Ram Niwas, Home Secretary, U.T. Administration, Sh. P.K. Srivastava, the IGP, UT Administration and Sh. S.S. Srivastava, SSP, U.T. Administration, Chandigarh



against the Principal for pornography, hacking, piracy etc. Thus a consorted maladroit effort was made to rope in the Principal and the Art Teacher of the school.

On a reflection of the facts of the case, it is luculent that the Principal had undergone mental torture at the hands of the insensible officers. As is perceptible, the mindset of the protectors of law appears to cause torment and insult to the Principal. There can be no trace of doubt that she is bound to develop stress disorder and anxiety which can weaken the strength of will power. It is said that anxiety and stress are slow poisons. This withers away the very essence of life as enshrined in Article 21 of the Constitution.

With the efflux of time, the concept of mental torture has been understood throughout the World, regard being had to the essential conceptions of human dignity. It also includes a treatment that is inflicted that causes humiliation and compels a person to act against his/her will or conscience. Any treatment meted out to a citizen by any authority of the state, which causes humiliation and mental trauma corrodes the concept of human dignity. It has been held by the Supreme Court in Vishwanath vs. Sau. Sarla Vishwanath Agarwal AIR 1991 SC 2176 that "reputation is not only the salt of life but also the purest treasure and the most precious perfume of life. It is extremely delicate and a cherished value on this side of



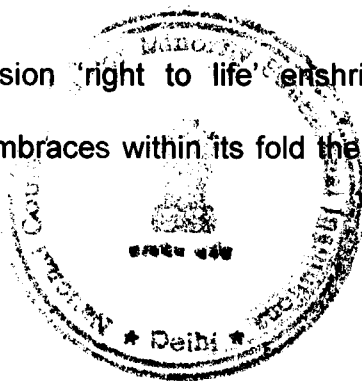
the grave. It is a revenue generator for the present as well as for the posterity”.

It is trite that a man's reputation forms a facet of right to life as engrafted under Article 21 of the Constitution. (Smt. Kiran Bedi vs. Committee of Inquiry & Anr. AIR 1989 SC 714). In Smt. Kiran Bedi's case (supra) their Lordships of the Supreme Court has quoted with approval the following observations from the decision in D.F. Marion vs. Davis 55 ALR 171:-

“the right to enjoyment of a private reputation, unassailed by malicious slander is of ancient origin, and is necessary to human society. A good reputation is an element of personal security, and is protected by the Constitution equally with the right to the enjoyment of life, liberty and property.”

In Smt. Selvi and Ors. State of Karnataka AIR 2010 SC 1974 the Supreme Court has held that “a forcible intrusion into a person's mental processes is also an affront to human dignity and liberty often with grave and long lasting consequences.”

The expression 'right to life' enshrined in Article 21 is of wide amplitude and it embraces within its fold the right to live with human dignity

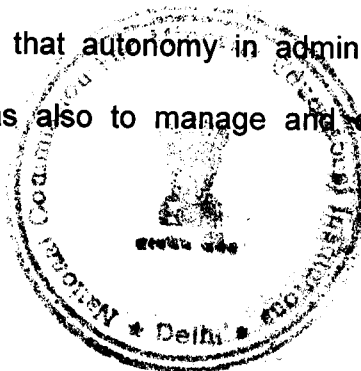


and all that goes along with it. (Francis Mullin vs. Administrator, Union Territory of Delhi and Ors. AIR 1981 SC 746; D.K. Basu vs. State of West Bengal AIR 1997 SC 610; Khanak Singh vs. State of U.P. AIR 1963 SC 1295).

The factual matrix of the case as noted above clearly reflects the deliberate insensitive approach to the entire fact situation. As demonstrated earlier the concerted maladroit effort was made to rope in the Principal and the teacher in certain criminal offences. It clearly exhibits the imprudent perception and heart of stone of the administrative authorities of the State.

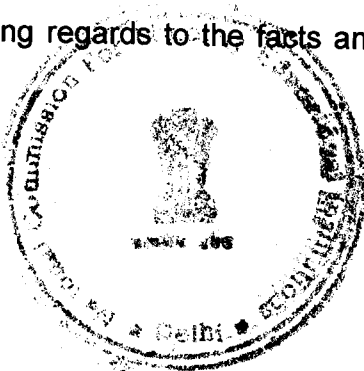
Direct interference in the internal management of the institution and it is tantamount to institution surrendering its administrative autonomy. The situation contemplates the administration to be in the hands of the particular minority community. In order that the management of the institution is free from outside control, the founders must be permitted to mould the institution as they think fit. No part of the management can be taken away by the Government and vest it in another body. As demonstrated earlier the offending actions of the Government officials have taken away the disciplinary action from the Governing body. This robs the founders of that right, that the constitution desires should be theirs.

It is well settled that autonomy in administration means a right to administer effectively as also to manage and conduct the affairs of the



institution. The distinction is between restriction on the right of administration and regulation prescribing the manner of administration. The right of administration is day to day administration. The choice in the personnel of management is also part of the administration. If there is maladministration, the State Government or the statutory authorities can take steps to cure the same. There is not even an iota of evidence on record to show or suggest that there was maladministration in the petitioner school. On the contrary, as demonstrated earlier, the impugned actions of the respondents No. 2, 3 & 6 have the effect of displacing the management and entrusting it to the Chandigarh Administration. Thus the autonomy in administration is lost. The calm waters of the administration was not only disturbed but also mixed. The broad approach is to see that nothing is done to impair the rights of the minorities in the matter of administration and that width and scope of the provisions of the Constitution dealing with those rights are not circumscribed under the guise of preventing maladministration. The right of the Governing body to manage the affairs of the minority educational institutions cannot be taken away. The effect of the impugned actions is that the management of the petitioner institution virtually lost its right to administer the institution.

For the foregoing reasons, we are constrained to observe that the aforesaid impugned actions of the respondent Nos. 2, 3 and 6 are violative of the educational rights of the minorities guaranteed under Article 30(1) of the Constitution. Having regards to the facts and circumstances of the case we



hope that henceforth authorities concerned will refrain from interfering in the internal administration of the petitioner institution.

JUSTICE M.S.A. SIDDIQUI
CHAIRMAN

DR. MOHINDER SINGH
MEMBER

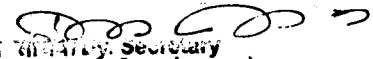
DR. CYRIAC THOMAS
MEMBER

ZAFAR AGHA
MEMBER



December 20, 2012

CERTIFIED COPY


Secretary
राष्ट्रीय अल्पसंख्यक शैक्षणिक संस्था आयोग
NATIONAL COMMISSION FOR
MINORITY EDUCATIONAL INSTITUTION
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi