

Court No. - 8

Case :- WRIT - C No. - 1229 of 2022

Petitioner :- Rajanya Kumar Pal Through Its Father Krishan Kanhaya Pal (In Person)

Respondent :- Union Of India Through Secretary Ministry Of Human Resource Development And 3 Others

Counsel for Petitioner :- Krishan Kanhaya Pal

Counsel for Respondent :- A.S.G.I.,Aishwarya Pratap Singh,C.S.C.

Hon'ble Abdul Moin,J.

Heard Sri Krishna Kanhaya Pal, learned counsel for the petitioner, Ms. Bulbul Godiyal, learned Senior Advocate as Amicus Curie for the petitioner, Sri Raj Kumar Singh, learned counsel appearing for the Union of India, learned Additional Chief Standing counsel appearing for the respondent no. 2, Sri Shashank Bhasin, learned counsel appearing for the respondent no. 3 and Sri Aishwarya Pratap Singh, learned counsel appearing for the respondent no. 4.

Instant petition has been filed by a child with special needs praying for appointment of special educator in the respondent no. 4 School in pursuance to the circulars issued by the Central Board of Secondary Education (hereinafter referred to as "Board") dated 24.09.2009, 25.06.2015 and 13.06.2017 which mandate appointment of special educators. A further prayer is for the respondent to waive off the school fee of the petitioner being claimed as an arrear till regular arrangement of special educator is made and further, to hand over the academic records i.e mark sheet of Class III and other records of Class IV and to include the petitioner in Class IV for the academic session 2021-2022.

It has been contended that the child namely Master Rajanya Kumar Pal was a student of Class II in the respondent no. 4 School in March, 2020 when the nation wide lock down was imposed in March, 2020. The online classes were started by the school which the child continued to attend till June, 2020. It is also contended that the child could not attend the classes subsequent to June, 2020 as the school did not permit the child to attend online classes. It is claimed that the child has passed Class III in Session 2020-21 and is now in Class IV and at the end of the academic session, which would end on 31.03.2022, the child is liable to be promoted to Class V. It is contended that once there was no special educator in the school since March, 2020 and child also could not attend the online classes since June, 2020, accordingly the respondent no. 4 School is not correct in charging the school fee from the child for Class III and Class IV and as such, it is prayed that the respondent school be restrained from charging any fee for the said periods and also hand over the academic records of the child of Class III and Class IV.

On the other hand, Sri Aishwarya Pratap Singh, learned counsel appearing for the respondent no. 4 school contends that online classes were continued by the school both in the year 2020 and 2021 and considering that the child with

special needs was admitted in the school, as such arrangements were made through online means in order to ensure that online classes were held with the help of special educator, who was taken from sister school. It is contended that the special educator who was with the school, resigned suddenly in March, 2020 and no new appointment could take place till recently. It is also contended that once the child continued to study in Class III and Class IV, as such the parents are liable to pay the fee for both the years and accordingly, promotion would also be granted to Class V for the session 2022-2023. Sri Singh contends that the online classes were going on all through out and at no stretch of time was the child ever prevented from attending the online classes. He also contends that a special educator has been appointed in the school in the last week of February, 2022 and is expected to join within ten days.

Sri Shashank Bhasin, learned counsel appearing for the Board also points out that in terms of the orders issued by the Board dated 24.12.2009, 25.06.2015 & 13.06.2017 it is mandatory for a school to appoint special educator for children with special needs in order to ensure that their education is carried out without any difficulty.

Having heard the learned counsel appearing for the contesting parties and having perused the records what is prima facie apparent is that the child was studying in Class II in March, 2020. Online classes were held which classes had been attended by the petitioner. It is claimed that the certificates of Class III and Class IV should be issued to the child. Thus, in case certificates are to be issued there would be a question of payment of the fees. However, considering that the child is one of special needs and there was no special educator admittedly in the school since March, 2020, as such even if the online classes were held the same could only have been attended with difficulty, if at all by the child concerned.

Considering the aforesaid, let the respondent no. 4 i.e School consider the exemption of fee for the aforesaid period for the child.

List this case on 07.03.2022 as fresh.

Order Date :- 3.3.2022

Pachhere/-