

Court No. - 3

Case :- WRIT - C No. - 6049 of 2023

Petitioner :- Anshuman Singh Rathore

Respondent :- Union Of India Thru. Secy. Ministry Of Edu.
New Delhi And 3 Others

Counsel for Petitioner :- In Person

Counsel for Respondent :- A.S.G.I., Afzal Ahmad
Siddiqui, Anand Dwivedi, C.S.C., Mahendra Bahadur
Singh, Sanjeev Singh, Vikas Singh

Hon'ble Vivek Chaudhary, J.

Hon'ble Subhash Vidyarthi, J.

Order on IA-5/2023:

1. Heard

2. This is an application for impleadment filed on behalf of Teachers' Association Madaris Aribiya, U.P. Kanpur.

3. The application is duly supported by an affidavit.

4. The applicant is also permitted to address the Court as an intervenor.

5. The application is disposed of accordingly.

Order on memo of petition.

6. The petitioner is present in person. The learned Standing Counsel, Sri Anand Dwivedi learned counsel for Union of India as well as Sri Gaurav Mehrotra, Advocate, Sri Akber Ahmad, Advocate and Sri Madhukar Ojha, Advocate, learned Amicus Curiae are also present in the Court. By an order dated 23.10.2019 the following questions were referred to a Larger Bench in Writ Petition No.29324 (S/S) of 2019: Mohammad

Javed Vs. State of U.P. and others:

"(i) Since the Madarsa Board is constituted for education in 'Arabic, Urdu, Parsian, Islamic-studies, Tibb Logic, Philosophy and includes such other branches of learning as may be specified by the Board from time to time', how come persons of a particular religion are provided to be member of the same? It does not talks about exponence in the aforesaid fields, for the purposes of which the Board is constituted, but persons of specific religion. It was put to learned Additional Chief Standing Counsel as to whether the purpose of the Board is to impart religious education only, to which he submits that a perusal of the Madarsa Education Act, 2004 does not indicate so.

(ii) With a secular constitution in India can persons of a particular religion be appointed/nominated in a Board for education purposes or it should be persons belonging to any religion, who are exponent in the fields for the purposes of which the Board is constituted or such persons should be appointed, without any regard to religion, who are exponent in the field for the purposes of which the Board is constituted?

(iii) The Act further provides the Board to function under the Minority Welfare Ministry of State of U.P., hence, a question arises as to whether it is arbitrary for providing the Madarsa education to be run under the Minority Welfare Department while all the other education institutions including those belonging to other minorities communities like Jains, Sikhs, Christians etc being run under the Education Ministry and whether it arbitrarily denies the benefit of experts of education and their policies to the children studying in Madarsa?

7. Though, the pleadings are exchanged between the parties but today when hearing was initiated, it was informed that the respondents i.e. the Union of India, the State Government and the U.P. Madarsa Education Board have not provided their clear and specific policies and views with regard to the aforesaid issues. The counter affidavits filed are only formal in nature.

8. The issue with regard to Madarsa Board and the management

of Madarsa by Minority Welfare Department, both by Union of India and State Government and other connected issues are under consideration in the present writ petition. The same impacts a huge number of students in the country and the quality of their education, more so when read with Article 21-A of the Constitution of India.

9. The counsels for Madarsa Board, Union of India and the State Government pray for a short adjournment to bring all available material/views of the respective parties before this Court along with any policies in vogue on their part. Three weeks' time is granted to learned counsel for the respondents for the aforesaid purpose.

10. List this case on 08.01.2024.

11. A copy of all the pleadings filed by the respective parties shall also be provided to the learned Amicus Curiae.

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(Subhash Vidyarthi, J.) (Vivek Chaudhary, J.)

Order Date :- 7.12.2023

Ram.