

**Before the Maharashtra State Commission for
Protection of Child Rights.**

**Enquiry, under section 13(1) & 14 of the child
right protection act, 2005**

Case No. 243 / 2012-13

Prajasattak Samajik Seva Sanstha, Kolhapur ... Applicants

V/s

St. Xavier's high school, Kolhapur... Respondants

Facts and circumstances giving rise to this matter are that :

A. The Complainant Prajasattak Samajikseva Sansthan (Here is referred as Sansthan) has submitted that on 12/8/11, nineteen students who were studying in the St. Xavier high school, Kolhapur had been forced to sit in the school's hall since 8.00 a.m. to 2.00 p.m. by school's authority. They were not allowed to leave the hall. The door of hall was closed. This incident had been repeated on 13/8/2011.

B. This matter was displayed by the electronic and news media and, only after media's intervention, it would have stopped. It is submitted by complainant that since action of school is violating the rights of child, therefore the Commission has been requested to take cognizance of this matter under section 15(1)

of Commission for Protection of Child Rights Act, 2005 and Sub Section (2) of Section 17 of Right to Education Act, 2009.

2. The Commission has taken the cognizance and issued notices to the concerned parties. Matter was listed before the Commission on 1/11/2011, 14/2/2012, 28/2/2012 and 30/3/2012. Written submissions has been made by the respondent. The Respondent has contested the charges labelled against him. It is mentioned in the submission that charges are bogus, false and in-doctored. The Complainant in connivance with other persons is trying to implicate the school. To maintain the discipline, the school has asked the students to sit in hall and maintaining discipline, cannot be termed as an violation of child's rights. In the meeting of members of P.T.A. and the Sports Committees, due to exam a decision was taken to discontinue an extracurricular activities. Therefore school did not allow the students to go for football match but the students went for match on their own. On account of disobeying the direction an explanations was called. Since the students were absent for three days without permission and without informing to the school's authority, therefore to maintain the discipline they were asked to sit in hall.

3. Their parents were also called and on the assurance of the parents that it would not be happen in future. The matter has been closed. The students were

allowed to appear in the examinations (Unit tests) conducted by the school from 16-18 August 2011, their marks/grades were recorded in their progress reports. A memo has been issued against P.T. teacher.

4. In the submission, it is mentioned that entire scene, such as calling media has been created by those who failed to admit their child in the school. The school has given substantial evidences to the local Police in this regard. It is pressure tactics being adopted by disgruntled persons same has been occurred during admission.

5. In the reply filed by the school education department of Government of Maharashtra, it has been mentioned that this matter has been investigated by the department and it is found that children have been punished. Therefore it was recommended to take action against the principal under the provision of Maharashtra private school teacher rules and regulations 1980 for violation of sub clause 2 of 17 Right to Education.

6. On the basis of submission of the party and perusal of the records following issues are for consideration :-

i) Whether forcing children to sit in one hall amount to corporal punishment and attract the provision of Commission for Protection of Child Rights Act, 2005 and Right to Education Act, 2009.

ii) Whether school's authority is responsible vicariously and individually for violation of provision of child rights and Right to Education Act.

The answers of the questions are as follows :-

Re : Question No. 1 – The school in it's submission has admitted that children were forced to sit in the hall and denied to leave therefore it is substantially proved that children have been punished. This type of treatment is prohibited under the law therefore action of school authority is in contravention of law.


Re : Question No. 2 – This matter fall under the purview of vicarious liabilities pertaining to the omission of principal.

7. On view of above points, the Commission's recommendation is as follows :

Action should be initiated against the school on the basis of report submitted by the Education Officer for violation of provision of Law.

By order and seal of Commission.




(A.N.Tripathi)
I.F.S.

Secretary
Maharashtra state commission for
protection of child rights