

12/19/17

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Recommendations of the Commission is prepared and placed on flag A ✓ for concurrence.

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12/15/2015  
A. N. Tripathi  
Secretary  
MSC PCR

Chairman (Incharge)



Insuedes

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Before the Maharashtra State Commission for Protection of Child Rights.

Enquiry, under section 13 (1) (b) & 14 (1) of the Child Right Protection Act, 2005 read with sections 31 and 32 (3) of Right to Education Act, 2009.

Case No.100/2013-2014

Mr. Rahim Sheikh --- Complainant

Vs.

Don Bosco Primary School, Matunga, --- Respondent  
Mumbai-400 019.

Background:- This matter has been filed by one Mr. Rahim Sheikh on 8<sup>th</sup> March, 2014, addressed to Education Officer, Municipal Corporation, and copy to this Commission. The complainant has made allegation against Don Bosco School, saying that under Right to Education Act, 2009, 55 students have been admitted by School in the first standard. However, out of 55 students, six have been submitted their income certificate and others have been admitted without the income tax certificate. This is violation of the provision of the Right to Education Act, 2009. He has mentioned a Government Resolution issued by Government of Maharashtra, but not mentioned the date and mentioned the paragraph 13 (b) of the Government Resolution by which he is claiming that complainant should be disposed of by Education Officer and Child Right Commission within eight days. The Commission sent a letter to the Education Officer and called report on this issue. On 21<sup>st</sup> March, 2014, the Commission placed this matter for hearing. However, Education Officer did

not attend the hearing. A letter dated 16<sup>th</sup> March, 2014 has been issued by the Commission to the Education Officer, mentioning that instead of issuing the notice, you did not appear before the Commission, therefore, if you fail to appear before the Commission then appropriate action shall be taken against you and also directed to submit the report immediately. During the hearing on 22<sup>nd</sup> April, 2014, Education Officer was directed to inquire the matter and submit the report. Further, this matter was heard on 25<sup>th</sup> September, 2014. The Commission has passed the following order:- *"Heard the matter. Parties are present. Objection has been raised by school seeking exemption from Right to Education Act, following Hon'ble Supreme Court's order dated 6<sup>th</sup> May, 2014. Admitted the objection subject to the submission of minority certificate by school by 29<sup>th</sup> September, 2014."* A report from the Deputy Education Officer has been received in the Office of the Commissioner on 25<sup>th</sup> August, 2014. In the report, it is mentioned that out of 52 students who have been admitted under Right to Education Act, six are under the BPL and 46 under the Caste Certificate. The School has submitted a minority certificate saying that school is religious minority, therefore, school is exempted under the provision of Right to Education Act.

2. The complainant has mentioned the Government Resolution by which he is saying that the Child Right Commission is supposed to dispose of the

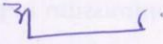
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
matter within eight days after receiving the complaint. However, he has neither mentioned the date of Government Resolution nor submitted the copy of the Government Resolution. So far Child Right Commission is concerned, this Commission is governed under the Right to Education Act, 2009 and sub-section (b) of section 31 (1) of the said Act, authorize the Commission to inquire the matter in case of violation of educational right of child. Sub-section (3) of section 32 authorize the Commission to hear the appeal from the order of the local authority. The Act does not prescribe time limit to dispose of the matter. Only local authority is supposed to dispose the matter within three months. Therefore, from where and how the complainant has mentioned the provision of Government Resolution, it is unclear. However, if Government Resolution prescribes the time-limit, nevertheless, the Act has been over-riding effect on Resolution.

3. In this matter, complainant did not approach the Commission in proper way. Complainant was required to approach to the Local Authority. Education Officer if there was any grievance, he was having and after failing to get any relief from Education Officer, he was supposed to come before the Commission in appeal in proper way as laid down by Commission's notification. However, he did not file complaint in accordance to the procedure established under the law, but despite of this, after using the power as mentioned in

section 31 (b), the Commission took the cognizance and initiated proceeding. The Education Officer submitted report, saying that 52 admissions have been given by School under the Right to Education Act, 2009, out of this, six are under BPL and 46 are under the Caste Certificate. The School has submitted certificate mentioning that school is minority institution and also placed that Right to Education Act is not applicable in view of Hon'ble Supreme Court's order of 6<sup>th</sup> May, 2014.

5. Hon'ble Supreme Court's order dated 6<sup>th</sup> May, 2014 has exempted minority institution, aided and unaided both from the purview of Right to Education Act, therefore, this matter is disposed of without any recommendation.

  
A. N. Tripathi  
I.F.S.  
Secretary  
Maharashtra State Commission for  
Protection of Child Rights

  
Sanjay Kumar  
I.A.S.  
Chairman (in-charge)  
Maharashtra State Commission for  
Protection of Child Rights

Dt 9/6/2015