

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

**Appeal under section 31 & 32 of Right to Education
Act 2009 along with section 13(1) & 14 of the child
right protection act, 2005**

Case No. 198/ 2011-12

Saroj Mane & others ... Applicants

V/s

Municipal Corporation... Respondent

Background

This matter came before the Commission as complaint matter, filed by the parents and students of Holy Family High School. In the complaint, it is mentioned that school education department of the Government of Maharashtra has initiated action against the Holy family school without any fault and try to withdraw the permission. Action as initiated by the education department of Government of Maharashtra to derecognise the school would affect the studies of more than five hundred students who are studying in the school. It is alleged that proposed action as initiated by the school education department, is against the provision of Right to Education Act, 2009. Thus complainants have approached this Commission.

2. The Maharashtra State Commission for Protection of Child Right (herewith referred as Commission) has taken cognizance and issued the notices to the education department of the Government of Maharashtra, Municipal Corporation, Principal of Holy Family School and complainants. Matter was heard on 18/10/2011 and 27/1/2012. In its reply, Municipal Corporation, education department has mentioned that action as proposed by the department is in accordance with law and the notices have been issued in order to follow the provision of G.R.s issued by the Government on 25.10.200 and 1.11.2001. The school management is required to appoint trained teacher for primary section, however, teachers who are working in the school are not trained as prescribed for primary section. Qualification for primary section is S.S.C. and D.Ed. while in the school, teachers are graduate and B.Ed.

3. In his reply as filed by Fr. Dr. Francis Carvalho, trustee of school have denied charges as raised by the education department. Contents of the reply as filed by the trustee are relied on the judgement passed by Hon'ble Supreme court in the matter of state of Maharashtra versa Tukaram Trayambak Chaudhary and others on 20/2/2007. In the said matter the Hon'ble Supreme court has confirmed an order passed by the Hon'ble Mumbai High court. Hon'ble High court of Mumbai in its decision has observed that :.

“An assistant teacher who posses B.A., B.Ed. qualification and teaches in the school imparting education from 5 to 7 standard is a trained teacher and therefore is entitled to be appointed as a Head Master. Policy of the Government announced vide Government Resolution 14-11-79 continue to apply for the primary school from 1st to 7th standard run by the Municipal Corporation.

4. On 23/1/2013 matter was further placed before the Commission. Respondent No.1 was represented by trustee Dr. Francis Carvalho. During time of hearing, it is pleaded that since action have not been taken by the education department, then matter may be closed.

5. After going through the observation made by Hon'ble Supreme court and Hon'ble High Court and other related laws, provision of recruitment rules, following questions are arising in this matter for consideration.

A. Whether Commission can take cognizance in the matter on the basis of complaint filed by the parent.

B. Whether, matter fall under purview of section 32 of Right to Education Act 2009.

C. Whether in this matter child rights have been violated.

6. Answers are being given below

Re : Question A - Under section 13(1) of commission for protection of child right Act, 2005 the commission can take up those issues, under which violation of child right is involved either by, suo moto or by motion of any other persons, agencies, authorities.

Re : Question B - It is not an appeal matter thus attract only section 31 of Right to Education Act 2009.

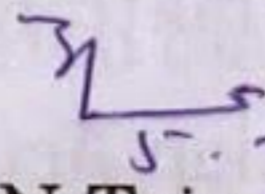
Re : Question C - As children have not been depriving from their educational right, therefore in this matter child right have not been violated.

7. In view of above commission's finding is as follow:

A. There is no merit in the case, therefore matter disposed off without any recommendation.

By order and seal of the Commission.




(A.N.Tripathi)

I.F.S.

Secretary

Maharashtra state commission for
protection of child rights