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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 08.05.2023

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W.P.(C) 5939/2023 and C.M. No. 23285/2023

VIRANDER KUMAR SHARMA PUNJ & ANR. Petitioner

Through: Mr. Meghverna Sharma, Advocate.

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondent

Through: Mr. Santosh Kumar Tripathi,
Standing Counsel with Mr. Arun
Panwar, Ms. Aakriti Mishra, Mr.
Pradyumn Rao and Ms. Mahak
Rankawat, Advocates for
Respondent/ GNCTD.

Mr. Traveen Singh Nanda, Advocate
for Respondent/ UOI.

Ms. Manisha Singh, Respondent
No.2.

Mr. Arjun Mahajan, Standing
Counsel with Mr. Apoorv Upmanya,
Advocate for Respondent No.5/
MCD.

Mr. Chetan Sharma, ASG with Ms.
Monika Arora, CGSC, Mr. Amit
Gupta, Mr. Yash Tyagi, Ms. Saurabh
Tripathi and Mr. Subhrodeep Saha,
Advocate for Respondent/ UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

Neutral Citation Number: 2023:DHC:3379-DB

SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The Petitioner before this Court has filed the present Writ Petition as a Public Interest Litigation (PIL) stating that they are much involved in the rights pertaining to education of the children of this country and the present Writ Petition has been filed for the benefit of crores of students studying or desirous of studying in schools of Directorate of Education Delhi, Kendriya Vidyalaya Sangthan, Navodaya Vidyalaya Samiti, Municipal Corporation in Delhi and other bodies.

2. The Petitioner has further stated that after further research on this topic, he came across an article published in the Times of India dated 09 April 2013 that Central Board of Secondary Education (CBSE) has decided to introduce legal studies as a subject in classes XI-XII, as a pilot project in 200 schools in India and abroad. After inquiring about the said publication by filing RTI to the respondent no. 2/ CBSE in August, 2022 about the said article the petitioner was informed that no records of 2013 files have been found in the Academic Unit. In August 2022 the petitioner tried to inquire about the CBSE letter whether legal studies is a subject of study in schools and legal study education is being imparted to students by recruitment of law graduate teacher on permanent basis in uniform manner in schools run by Directorate of Education, Delhi. He was informed by the respondents that law is not offered as a subject of study in their schools. During research the petitioner also tried to collect the details of the schools where teaching of legal studies at present was being imparted and he found that legal study is a subject only in 18 private schools.

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3. The Petitioner's main grievance is that the subject of Legal Studies and subject of Law should be introduced as a compulsory subject in schools education. The Petitioner has prayed for the following relief:

“I) Issue any appropriate writ, order or direction directing the respondents to forthwith offer and introduce law education/legal studies subject compulsorily as elective/optional subjects in all the schools forthwith

II) Issue any appropriate writ, order or directions directing the respondents to forthwith create adequate number of regular posts of Law Graduate Teachers on permanent basis to impart legal studies as per the syllabus of CBSE by framing recruitment rules and recruit at least two Law Graduate teachers in each and every school (One Male and One Female) falling under their jurisdiction, area and control.

III) Pass any other, order, or directions or such further orders or directions as this Hon'ble Court may deem fit and proper in the interest of students, society and interest of justice, and

IV) Allow the present Public Social Legal Justice Interest Litigation petition, in favour of the petitioners, students and society.”

4. The petitioner states that not imparting legal education to students violates their fundamental rights and deprives them of equality and equal opportunity guaranteed under Article 14, 21, 21-A of the Constitution of India read with provisions of Right of Children to Free and Compulsory Education Act, 2009 and fundamental rights of the children.

5. This Court has heard the Learned Counsel for the Petitioner at length and has carefully gone through the documents on record. The Petitioner's prayer is for the issuance of an appropriate writ, order or direction directing

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the Respondents to introduce Law Education/ Legal Studies as compulsory/ optional subject in the schools forthwith.

6. In the considered opinion of this Court, framing of a course is the sole domain of expert bodies and the Courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies, and to take decisions in the academic matters involving the standards of quality of education.

7. The courses have been designed by experts of the field and the new education policy of Government of India caters to the need of the country.

8. This Court cannot substitute its views against the views of experts on the subject. So far as Legal Education/ Legal Studies is concerned, it is already an optional subject in school education and the CBSE is certainly conducting examination in respect of the optional subject of legal education/ legal studies.

9. The Hon'ble Supreme Court in the case of ***All India Council for Technical Education V. Surinder Kumar Dhawan And Others***, (2009) 11 SCC 726 in Paragraph 16 and 17 has held as under:

“16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realising the repercussions

on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.

17. The role of statutory expert bodies on education and the role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in. In J.P. Kulshrestha (Dr.) v. Allahabad University [(1980) 3 SCC 418 : 1980 SCC (L&S) 436] this Court observed: (SCC pp. 424 & 426, paras 11 & 17)

“11. ... Judges must not rush in where even educationists fear to tread. ...

17. ... While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies.””

10. In light of the aforesaid judgment as this Court is not an expert to frame a curriculum or to draft a syllabus and the same has to be done by experts, this Court does not find any reason to pass any order in the matter as prayed for.

11. A similar view has been taken in the case ***Maharashtra States Board of Secondary and Higher Secondary Education V. Paritosh Bhupesh Kumar Seth***, (1984) 4 SCC 27 in Paragraph 29 reads as under:

”29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in

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preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.”

12. In the aforesaid case, it has been held that the Court should be extremely reluctant to substitute its own views as to what is prudent and proper in relation to academic matters as the policies are formulated by professional men possessing technical expertise and rich experience. Therefore, it is purely a policy matter based upon the expert advices, and, therefore, this Court does not find any reason to interfere as prayed for by the Writ Petitioner.

13. In the case of ***Basaviah (Dr.) v. Dr. H.L. Ramesh***, (2010) 8 SCC 372, the Supreme Court has again reiterated the same views as in the aforesaid judgments. The relevant excerpt of the judgment are hereunder:

“26. In J.P. Kulshrestha (Dr.) v. Allahabad University [(1980) 3 SCC 418 : 1980 SCC (L&S) 436] the Court observed that the court should not substitute its judgment for that of academicians: (SCC p. 426, para 17)

“17. Rulings of this Court were cited before us to hammer home the point that the court should not substitute its judgment for that of academicians when the

dispute relates to educational affairs. While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies.”

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33. *In Dental Council of India v. Subharti K.K.B. Charitable Trust [(2001) 5 SCC 486] the Court reminded the High Courts that the Court's jurisdiction to interfere with the discretion exercised by the expert body is extremely limited.*

34. *In Medical Council of India v. Sarang [(2001) 8 SCC 427] the Court again reiterated the legal principle that the court should not normally interfere or interpret the rules and should instead leave the matter to the experts in the field.*

35. *In B.C. Mylarappa v. Dr. R. Venkatasubbaiah [(2008) 14 SCC 306 : (2009) 2 SCC (L&S) 148] the Court again reiterated the legal principles and observed regarding importance of the recommendations made by the expert committees.*

36. *In Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University [(2008) 9 SCC 284 : (2008) 2 SCC (L&S) 887] the Court reminded that it is not appropriate for the Supreme Court to sit in appeal over the opinion of the experts.”*

14. The Jammu and Kashmir High Court vide its order dated 03.07.2013 in O.W.P 903/2011 titled **DCM Public School Vs. State of J&K & Ors.** has also taken a similar view.

15. In view of the aforesaid judgments, legal position in academic/education policy matters has been re-affirmed and reiterated. The petitioner's submission that legal studies should be included in the curriculum and should be imparted in every school cannot be accepted as this issue falls within the domain of the expert bodies. The relevant educational authorities are appropriate authorities to deal with academic

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policy issues involving the list of subjects to be offered to students, their standards and quality of education to be imparted. Therefore, in the considered opinion of this Court, it is the sole domain of the experts to design a course and to prescribe subjects and curriculum in respect of school education. The CBSE is a competent authority to design a curriculum/ syllabus and fix number of teachers required to teach the subjects.

16. In view of above, no case of interference is made out in the matter. The Petitioner shall be free to submit a representation to the CBSE, if so advised.

17. The admission of the present PIL is declined accordingly.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J.

MAY 08, 2023

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