

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CWP No. 1679 of 2020**

**Reserved on : 01.10.2020**

**Decided on: 06.10.2020**

---

Twinkle Pundir & Ors.

...Petitioners

Versus

State of H.P. & Ors.

...Respondents

---

**Coram:**

**Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.**

**Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge.**

Whether approved for reporting? <sup>1</sup> **Yes.**

**For the Petitioners :** Mr. Bimal Gupta, Sr. Advocate with Ms. Kusum Chaudhary, Advocate.

**For the Respondents :** Mr. Ashok Sharma, Advocate General with Mr. Vikas Rathore, Mr. Vinod Thakur, Mr. Shiv Pal Manhans, Addl. A.Gs., Ms. Seema Sharma, Mr. Bhupinder Thakur and Mr. Yudhvir Thakur, Dy. A.Gs., for respondent No. 1.

Mr. Anshul Bansal, Advocate, for respondent No. 2.

Mr. Naveen Awasthi, Advocate, for respondents No. 3 to 5.

**(Through Video Conferencing)**

---

**Tarlok Singh Chauhan, Judge**

How at times the private educational institutions get down to blackmailing and hand-twisting, is best reflected in the instant case.

2. The petitioners took admission in three years course in GNM i.e. General Nursing & Midwifery Diploma in the Himalayan School of Nursing, being run by the Himalayan Group

---

<sup>1</sup> Whether reporters of the local papers may be allowed to see the judgment? yes

of Professional Institutions, under the aegis of Maa Saraswati Education Trust, registered in the State of Haryana. At the time of taking admission in the college, the petitioners were asked to hand over their original educational certificates to the college on the pretext that those documents were required for the admission purpose and would be given back as and when required by the petitioners. The petitioners alongwith other students handed over their original educational certificates to the college authorities of respondent No. 5, believing that the same would be handed over to them as and when required and desired, but alas this was not happened.

3. The petitioners, approached the college authorities for return of the documents from time to time, but of no avail, constraining them to prefer representations to Hon'ble the Chief Minister, with a request to direct the respondents, to return the certificates back but to no avail. Even after appearing in final examination of third year in 2019, the petitioners again approached the Chairman of respondent No. 3, who informed the petitioners that the original documents as retained by college, have now been taken by the Central Bureau of Investigation (for short the "CBI").

4. Having failed to secure and get back their original documents and certificates, the petitioners have filed the instant petition for the grant of following substantive relief(s):-

i. That respondent No. 2 to 5 may be directed to return the original documents of the petitioners immediately without any further delay.

ii. Respondents No. 2 to 5 or any of these respondents in whose illegal custody the original documents of petitioners are there, may kindly be directed to pay to each of the petitioner a sum of Rupees Five Lacs as compensation. The respondents may further be directed to produce the records and to pay costs.

5. The college authority(ies), who have been arrayed as respondents No. 3 to 5, in their reply, submitted that the documents which were being sought by the petitioners, are not in the custody of the college, as these were seized by the CBI during the verification of allegations in FIR registered against the institutions, who had been receiving scholarship money for SC and ST students. The remaining averments regarding the petitioners having repeatedly approached the college authority for return of the documents have not been specifically denied but have been denied in a routine fashion by averring that the contents of this para are denied being wrong and incorrect.

6. At the time of filing of the petition, the Court did not proceed to issue any notice to second respondent i.e. CBI, however, taking into consideration, the response of the college authority(ies) i.e. respondents No. 3 to 5, the Court issued notice and directed the CBI to file its response.

7. It is apt to reproduce paras 3 to 5 of the reply filed by CBI, which read as under:-

“3. That during the search proceedings at Himalayan Group of Professional Institutions, Kala Amb, Tehsil Nahan, District Sirmaur, H.P., certain files were seized.

4. That the scrutiny of seized files, revealed that the Himalayan Group of Professional Institutions, Kala Amb, Tehsil Nahan, District Sirmaur, H.P., had retained the original documents of the students, who had taken admission in the above mentioned institutions, with ulterior motives. The documents mentioned herein above, including the original documents of the Petitioners were seized by CBI after obtaining search warrants from the court of learned Special Magistrate (CBI) cum CJM, Shimla. After conclusion of search, CBI preferred an application seeking retention of seized documents for further investigation before the Court of learned Special Magistrate (CBI)-cum-CJM, Shimla. The said application was allowed by the learned Special Magistrate (CBI)-cum-CJM vide order dated 31.05.2019.

5. That since the investigation qua Himalayan Group of Professional Institutions, Kala Amb, Tehsil Nahan, District Sirmaur, H.P., is at an advanced stage, thus CBI has no objection in case the original documents are returned back to the students and photocopies thereof are retained by CBI subject to the condition that the students shall produce the original documents before the competent Court, as well as CBI, as and when required. It is in the interest of justice that the students approach the office of CBI for collecting their original documents.”

8. In State of **Tamilnadu and others Vs. K. Shyam Sunder and others, (2011) 8 SCC 737**, the Hon'ble Supreme

Court explained the importance of education in the following terms:-

“18. In the post - Constitutional era, an attempt has been made to create an egalitarian society removing disparity amongst individuals, and in order to achieve that purpose, education is one of the most important and effective means. After independence, there has been an earnest effort to bring education out of commercialism/mercantilism. In the year 1951, the Secondary School Commission was constituted as per the recommendation of Central Advisory Board of Education and an idea was mooted by the Government to prepare textbooks and a common syllabus in education for all students. In 1964 - 1966, the report on National Education Policy was submitted by the Kothari Commission providing for common schools suggesting that public funded schools be opened for all children irrespective of caste, creed, community, religion, economic conditions or social status. Quality of education imparted to a child should not depend on wealth or class. Tuition fee should not be charged from any child, as it would meet the expectations of parents with average income and they would be able to send their children to such schools. The recommendations by the Kothari Commission were accepted and reiterated by the Yashpal Committee in the year 1991. It was in this backdrop that in Tamil Nadu, there has been a demand from the public at large to bring about a common education system for all children.”

9. In State of **Orissa Vs. Mamata Mohanty (2011) 3 SCC 436**, the Hon'ble Supreme Court emphasized the importance of education by observing that education connotes the whole course of scholastic instruction which a person has

received. Education connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling.

10. In ***Osmania University Teachers' Association Vs. State of Andhra Pradesh, (1987) 4 SCC 671***, it was held that democracy depends for its very life on a high standard of general, vocational and professional education. Dissemination of learning with search for new knowledge with discipline all round must be maintained at all costs.

11. Education is an investment made by the nation in its children for harvesting future crop of responsible adults productive of a well-functioning society (***Refer Rohit Singhal Vs. Jawahar Navodaya Vidyalaya, (2003) 1 SCC 687***).

12. But what happens when educator gets down to hand twisting and black mailing by retaining the original certificates and other documents of its students so as to ensure that their wings are clipped and they do not migrate to any other college or for that matter leave the college.

13. It has specifically come out in the reply filed by CBI that the respondents-college had retained the original documents of the students who had taken admission in the above mentioned institutions with ulterior motive.

14. Now, that the CBI has no objection in case the original documents are returned back to the students and photocopies thereof retained by the CBI. The prayer No. 1 is

allowed by directing the CBI to return the original documents back to the students after retaining photocopies thereof, subject to the condition that the petitioners and other students shall produce the original documents before the competent Court as well as CBI, as and when required.

15. As regards the second prayer, it has been duly established on record that on account of illegal action of the college management the petitioners and other similarly situate students have been put to untold misery and tension exposing their careers to unpredictable uncertainty. Not only this, the petitioners and similarly situate students have been compelled to undergo lot of mental trauma and indulge in a legal battle to set right their upset careers.

16. Therefore, in such circumstances the prayer of the petitioners has to be considered in light of the following observations of the Hon'ble Supreme Court in ***Maharishi Dayanand University vs. M.L.R. Saraswati College Education, (2000) 7 SCC 746:-***

“39. It is time that the courts evolve a mechanism for awarding damages to the students whose careers are seriously jeopardised by unscrupulous management of colleges/schools which indulge in violation of all rules. This is not the occasion to go deep into that aspect but one day it has to be done.”

17. At this stage, the learned counsel for the college would try to argue that the college management is not at all at

fault, however, after taking into consideration the entirety of the facts and circumstances of the case, as enumerated above, this cannot be a valid contention on the part of the management to exculpate itself from legal accountability to the students who are harmed by its actions.

18. Therefore, taking into consideration, the entirety of the facts and circumstances of the case, we feel that the petitioners have to be compensated for the legal expenses, at least, which have been incurred by them in prosecuting the litigation before this Court.

19. We, accordingly, while allowing relief No. 2, direct the respondents-college to pay a sum of Rs. 50,000/- each to the petitioners towards litigation expenses. As regards award of compensation, the same has to be awarded on the basis of evidence. Therefore, we leave it open to the petitioners to claim the same before an appropriate authority/Court etc. in accordance with law.

20. With these observations, the writ petition is disposed of, so also pending miscellaneous application(s), if any, leaving the parties to bear their own costs.

**(Tarlok Singh Chauhan)**  
Judge

**(Jyotsna Rewal Dua)**  
Judge

**6<sup>th</sup> October, 2020.**  
(Pankaj/sanjeev)