



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 5TH DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.101767 OF 2025 (EDN-AD)

BETWEEN:

1. MUZAMMIL S/O. USMANGANI KAZI,
AGE: 43 YEARS, OCC. MECHANIC,
R/O. PLOT NO.1209, SECTOR NO.6,
SHREE NAGAR, BELAGAVI-590001.
2. ABBU BAKAR KAZI
AGE: MINOR, OCC. STUDENT,
R/O. PLOT NO.1209, SECTOR NO.6,
SHREE NAGAR, BELAGAVI-590001.
(HIM BEING MINOR R/BY. HIS NEXT FRIEND
"FATHER" I.E. PETITIONER NO.1)

...PETITIONERS

(BY SRI. ANWARALI D. NADAF, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
R/BY THE SECRETARY,
DEPT. PRIMARY AND SECONDARY EDUCATION,
DR. B.R. AMBEDKAR VEEDHI, BANGALORE-01.
2. THE DIRECTOR OF PUBLIC INSTRUCTIONS
(PRIMARY EDUCATION)
DR. B.R.AMBEDKAR VEEDHI,
BANGALORE-01.
3. THE ST.PAUL'S HIGH SCHOOL
R/BY. ITS PRINCIPAL,





E W FERNANDES ROAD, CAMP,
BELAGAVI-590001.

...RESPONDENTS

(BY SRIYUTHS. P.N. HATTI, HCGP FOR R1 AND R2;
AKSHAY KATTI, ADVOCATE FOR R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE 3RD RESPONDENT TO ADMIT MINOR PETITIONER NO.2 TO ITS SCHOOL FORTHWITH WITHOUT ANY HURDLES IN LKG GRADE. B. GRANT SUCH OTHER RELIEF AS THIS HON'BLE HIGH COURT DEEMS FIT UNDER THE CIRCUMSTANCES IN THE INTEREST OF JUSTICE.

THIS PETITION IS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The petitioners are before this Court seeking for the following reliefs:

A. A writ of Mandamus or any other appropriate writ directing the 3rd respondent to admit minor petitioner No.2 to its school forth with without any hurdles in LKG grade.

B. Grant such other relief as this Hon'ble High Court deems fit under the circumstances in the interest of justice.

2. The grievance to the petitioners is that an application has been made for admission of petitioner



No.2/minor with respondent No.3/private unaided school. Though an intimation had been received by the petitioners that petitioner No.2 had been selected and was called upon to come along with the parents on 28.02.2025 from 01:30 to 03:30 p.m. to meet the Principal and confirm the seat, subsequently, the website indicated a change with a new intimation stating "verification pending."

3. On enquiry, the petitioners came to know and were informed by respondent No.3/school that there was a system glitch in the software of respondent No.3/school and as such, a similar communication had been sent to 61 other students and thereafter, the same was rectified.
4. The sanctioned admission in respondent No.3/school being 150 students, the said admission has been completed among the eligible students. It is in that background that the petitioners are before this Court



contending that once the petitioners had received intimation that the petitioner No.2 had been admitted, he is required to be admitted in respondent No.3/school.

5. Upon notice having been issued to respondents, respondent No.3 has entered an appearance through counsel. The preliminary objection raised by respondent No.3 is that the present writ petition is not maintainable inasmuch as respondent No.3 is a private unaided school and a writ cannot be issued against a private unaided school. On merits, the submission made is that, with 150 seats available, all 150 seats have been filled. The intimation, which had been sent, was wrongly sent to 61 students. If all the 61 students were to be considered, it would exceed the sanctioned admission strength of the school and it is in that background that respondent No.3/school could not admit petitioner No.2 to his school, though there is no particular intention on the part of



respondent No.3/school not to admit petitioner No.2 to this school.

6. In reply thereto, Shri Anwarali D.Nadaf., learned counsel for the petitioners, submits that there is no particular embargo as regards the exercise of the writ jurisdiction under Article 226 of the Constitution of India in respect of a private unaided school. His submission, by relying upon the decision of the Hon'ble Delhi High Court dated 23.08.2024 in ***W.P.(C) No.11229/2024*** between ***Master Jai Kumar Through his Father Manish Kumar versus Aadharshila, Vidya Peeth and others*** is that education is an aspect involving a public element. Any school, even if it is an unaided school, would be amenable to the writ jurisdiction of this Court, and as such, this Court would be entitled to conduct judicial review of any action taken by the school. On that basis, he submits that the



preliminary objection raised by respondent No.3 is not maintainable.

7. Heard Shri Anwarali D.Nadaf., learned counsel for the petitioners, Shri Akshay Katti., learned counsel for respondent No.3 and Shri P.N.Hatti., learned HCGP for respondents No.1 and 2-State.
8. The points that would arise for consideration are:
 - i. **Whether the present petition filed by the petitioners against a private unaided school is maintainable?**
 - ii. **Whether in the facts and circumstances of the case, the reliefs sought for by the petitioners are required to be granted?**
 - iii. **What order?**
9. I answer the above points as under
10. **Answer to point No.1:- Whether the present petition filed by the petitioners against a private unaided school is maintainable.**



10.1. A reference in this regard has been made by the learned counsel for the petitioners to the judgment of the Hon'ble Apex Court in ***Civil Appeal No.7256-7259 of 2024*** between ***Army Welfare Education Society, New Delhi, versus Sunil Kumar Sharma and others. ETC***, as also the order of Hon'ble Delhi High Court passed in ***W.P.(C) No.11229/2024 (supra)***.

10.2. By relying on both the above judgments, learned counsel for the petitioners has tried to persuade this Court to contend that a writ petition is maintainable.

10.3. There can be no dispute as regards the judgments of the Hon'ble Apex Court and the Hon'ble Delhi High Court. The powers of this Court under Article 226 of the Constitution of India are extensive, and whenever any action



is taken by any authority or private entity that impacts the fundamental and constitutional rights of a citizen of the country, power of judicial review can be exercised by this Court. However, there are self-imposed limitations on the said jurisdiction, namely: (i) that such exercise could be made only when there is a public element involved, and (ii) more importantly, if any of the fundamental rights of a citizen are affected by an action even taken by a private entity i.e., if there is a violation of fundamental rights, more particularly under Articles 14, 19, and 21 of the Constitution of India.

10.4. In that view of the matter, it is clear that a writ petition could be entertained under Article 226 of the Constitution even in respect of a private entity.



iv. Hence, I answer point No.1 by holding that merely because respondent No.3 is a private unaided school, would not mean that this Court would not exercise the power of judicial review under Article 226 of Constitution of India, if an action on part of the private unaided school impinges on the fundamental or constitutional rights of a citizen, a writ petition under Article 226 of the Constitution against a private unaided school is maintainable.

11. Answer to point No.2:- Whether in the facts and circumstances of the case, the reliefs sought for by the petitioners are required to be granted.

11.1. As answered in point No.1, what is required to be considered is whether the actions on the part of respondent No.3 school would impinge upon any fundamental rights of the petitioners



or violate any applicable statute. There is no specific allegation in the petition regarding any discrimination or the like which would violate Article 14 of the Constitution of India, nor is any such allegation made as regards the violation of fundamental rights under Articles 19 and 21 of the Constitution of India, though a reference is made that non-grant of admission would deprive the petitioners of their rights under Article 21 of the Constitution of India, the mere non-admission of petitioner No.2 in respondent No.3 school would not amount to a violation of Article 21, inasmuch as the petitioners have access to various other schools where petitioner No.2 could apply and obtain admission. It is not the case that only if petitioner No.2 is admitted to respondent No.3 school, the rights under Article 21 of the Constitution of India, would be preserved.



11.2. Even though a reference has been made to the Right of Children to Free and Compulsory Education Act, (for short, RTE Act') this is not a case where petitioner No.2 student, is made eligible under the RTE Act, and it is not a case where petitioner No.2 had been allotted to respondent No.3 school for admission under RTE Act. Thus, there is no particular violation of either the fundamental rights guaranteed under the Constitution of India or any statutory rights, more particularly under the RTE Act.

11.3. ***Hence, I answer point No.2 by holding that the present writ petition seeking the reliefs as sought for would not be maintainable.***

12. **Answer to point No.3:- What order.**



12.1. In view of my answers to Point Nos.1 and 2,
the petition stands ***dismissed***.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

AM/-
Ct:pa
List No.: 1 Sl No.: 19