

ITEM NO.9

Virtual Court 4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.599/2020

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 17-07-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s)

Mr. Ashwani Kumar Dubey, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Invoking the jurisdiction of this Court under Article 32 of the Constitution, the following reliefs have been sought by the petitioner who appears in person:

"a) ascertain the feasibility of constituting a National Education Council (on the lines of GST Council) or National Education Commission (as proposed by the NCRWC) to implement uniform education system having common syllabus and common curriculum for all the children aged 6-14 years in spirit of Article 21.A read with Articles 14, 15, 16, 38(2), 39(f), 46 and 51A of the Constitution of India;

b) ascertain the feasibility of introducing a standard textbook having chapters on fundamental rights, duties, directive principles and the golden goals set out in the Preamble, and make its study compulsory for all the children aged 6-14 years throughout the territory of India;

c) ascertain the feasibility of establishing "One Nation One Education Board" by merging Indian Certificate of Secondary Education Board into Central Board of Secondary Education or vice-versa;

d) take steps as the Court may deem fit to secure right to education in spirit of Articles 14, 15, 16, 21A, 38, 39, 46, 51A and allow the cost."

2 Mr Ashwini Kumar Upadhyay, who has appeared in person, submits that the reliefs which have been claimed are founded on the provisions of Article 21A of the Constitution and on the Right of Children to Free and Compulsory Education Act 2009. In his submission, the present educational system does not provide equal opportunity to students of all strata of society. He has relied on the decision of the US Supreme Court in Brown vs Board of Education 98 L Ed 873: 347 US 483 (1953).

3 In the alternative, he has submitted that if this Court is not inclined to entertain the Writ Petition, the petition may be permitted to be treated as a representation and the Registry should be directed to forward the representation to the respondents for considering the suggestions which have been made.

4. The Writ Petition raises issues of policy. We are affirmatively of the view that it is not within the domain of this Court under Article 32 of the Constitution to direct the constitution of a National Education Council or National Education Commission. These are matters which fall within the domain of experts. Similarly, the relief which has been of introducing a "standard textbook with a chapter on the Constitution" is a matter of policy. The school syllabus contains subjects bearing on the knowledge of rights, duties and governance under the Constitution.

5 We reject the submission for issuing a mandamus for constituting a single Board by merging the Indian Certificate of Secondary Education Board into Central Board of Secondary Education. The petition lays no foundation or justiciable basis for the Court to issue directions of this nature. We decline to allow the office of this Court to be used for directing that the suggestions which have been made by the petitioner be considered by the authorities. This is nothing but an effort to confer legitimacy on the petitioner's attempt to enter into an area of educational policy.

6 The Writ Petition is accordingly dismissed.

7 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
AR-cum-PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER