

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

**Enquiry, under section 13(1) & 14 of the Child Right
Protection Act,2005.**

Case No.263 / 2011-12

Mr.Naresh Gangaram Gosavi & others ... Applicants

V/s

Chembur English High School... Respondent

1. In the said matter complainant Mr. Naresh Gangaram Gosavi, has approached the Commission alleging that authorities of Chembur English High School are using derogatory remark against students belonging the SC/ST/NT/VJNT/OBC, for not depositing school fees.
2. The students belonging to backward communities are suffering various type of physical and mental harassments such as forcing to stand outside the classroom, not providing diaries, Identity Cards, Computer books etc, not allowing to appear for computer class and also asking to bring papers at their own for examination, not checking answer sheets, non

issuing of marksheets etc. The complainant has prayed before the commission for detailed enquiry against Principal and staff of school and to take appropriate action against them.

3. The Commission issued notices to Chembur High School, Divisional Social Welfare Officer, Kokan Bhavan, Social Welfare Officer class II, Chembur, Dy. Director, Education, Government of Maharashtra and complainant Mr. Naresh Gosavi. Matter placed before the Commission on 13/2/2011, 7/1/2012, 25/1/2012 and 23/1/2013 for hearing.

4. The Headmistress of Chembur English High School Mrs. Annamma Paul has filed detailed affidavit before the Commission. In the affidavit allegation and contention as mentioned in complaint have been denied. The school is having minority status, unaided and not getting any benefit from the Government. The Government by it's GR dated 24th December, 1970 and various other modified G.R. issued subsequently, regarding reimbursement of fees in case of the student belonging to backward communities viz. SC, ST and VJNT. However academic from year 2008-2009 onward

Government has discontinued this freeship scheme. Therefore the school authority demanded fees. Thereafter parents of those students who had not paid fees had approached Hon'ble High Court by filing Public Interest Litigation No.26 of 2011.

5. The Hon'ble High Court by it's order dated 28th April, 2011 have directed the State Government to reimburse the fees paid by the students belonging to weaker section of society, however State Government did not reimburse fees. Even though in pursuance of modified GR issued by the State Government, proposal to fix standard rate of fee for those who belong backward class have been accepted. However there is a huge difference between the standard rate fixed by the State Government and the fees charged by the school. The State Government on 1st December, 2011 have taken decision wherein it is mandatory that reimbursement is only applicable to backward communities who are below the Poverty Line.

6. The school in it's reply it is contended that it has right to charge the fees. Therefore charging fees does not fall under the purview of Commission for Protection of

Child Right Act, 2005 and Right to Education Act, 2009. So for allegation as levelled by the Complainant to harass the child is concern, it is totally false. The school is not harassing children. The complaint is nothing but to pressurise school, not to demand their legitimate school fees, other charges and arrears from said category of students.

7. The school is a minority school and have been protected by Right to Education Act 2009 amended in 2012 (19/6/2012).

8. Regarding the payment of fees and fee structure an order have been passed by Hon'ble High Court on 21.12.2010. The relevant part of judgement in paras 4,5,6 and 7 of the said order are being reproduced here.

“a) Having heard the learned counsel for the parties, we make it clear that if the petitioners or the concerned respondents-institutions make any representation to the State Government within a period of 10 days from today indicating the rates at which the reimbursement should be made, the State Government shall take into consideration such representation and also take a decision on the report of the committee appointed

under Government Resolution dated 18th February, 2010.

b) In order to enable the petitioners and respondents-institutions to make effective representation on the above issue, it would be in the fitness of things to direct the State Government that copies of the report be furnished to the counsel for the petitioners, respondents, students and institutions within three days from the date of receipt of the order.

c) Till the decision is taken on the above report, the State Government shall not make any recovery of the amount reimbursed to the respondents-institutions in the past.

d) It is further directed that the students whose fees are not reimbursed to the concerned school shall be permitted to attend the classes and continue their studies."

The said matter consider by Hon'ble High Court in term of freeship amount and fees structure and still matter pending before Hon'ble High Court. Therefore this commission have very limited scope to comment on the issue.

9. After going through the records, submission of school as made by the authorities and records, the facts as emerging in the case are as follows.

a. Whether students have been deprived off from the right to education on account of belonging to weaker section of society.

b. Whether school authorities are discriminating the students on caste basis

c. Whether school authorities comply the order as passed by the Hon'ble High Court

d. Whether school is bound to provide education even if they don't receive aid from govt.

10. After going through records and submission made by the authorities the outcomes of the facts are follows :

1. Students are still in school.

2. It could not be established.

3. Records as produced before the Commission reveal that school has followed the order as passed by Hon'ble High Court

4. Unaided schools have right to charge the fees on account of their financial position & implementation of recommendation of sixth pay commission as well as payment to teachers from their own.

11. On the basis of facts & issues as emerge, finding of Commission is as :

Complaint against the school is not tenable and matter is 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