

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. 38/ 2012-13

Shri. Swapnil A. Rokade ... Complainant

V/s

Rhythm House (Magik House), Airoli ... Respondent

This matter came before the Commission by Complainant Shri Swapnil A. Rokade whose daughter Kum.Devanshi Rokade, was in the playschool named Rhythm House in Airoli Sector 8, Navi Mumbai.

2. In the complaint it is mentioned that owner of playschool Mr. Manish Gupta and his wife Mrs. Shyna Gupta has assured applicant to provide proper attention and required facilities to his child who was at that time two years old during time of admission. Accordingly the applicant had paid full year fees Rs.16,800/-. On August 27, 2012 when Complainant went to the school to pick up his daughter, then found her crying. Realizing her problem when asked the reason from teacher then received reply that it is due to fear which she realized

when she was playing. Believing on teacher's version, complainant brought his daughter at home, but there too she did not feel comfort and showing uneasiness. When the problem become unbearable then Complainant school and tried to understand the matter, but nothing could be achieved except the repeated story by the same teacher. Seeing the deteriorated conditions of her daughter, Complainant went to hospital and consulted the doctor, who advised to admit in the hospital. She was admitted in the Breach Candy hospital. Doctor referred child for X-ray test. X-ray report showed crack in color bone. To heel crack it would required at least six months provided that she take complete bed rest and medication.

3. The Applicant went to school and demanded from the respondent to allow him to observe C.C.T.V. footage which is installed in the classroom. Respondent was reluctant to allow complainant to get access however realizing the seriousness of case and apprehension of taking legal recourse by the Complainant, the school authorities reluctantly allow to check C.C.T.V. footage. It reveal in the footage that she dropped down towards the ground when playing and after incident no one took any step to provide any type of treatment.

4. F.I.R. was filed against the owners and teachers of Rhythm House on 1/9/2012. F.I.R. has been registered by the complainant. However Police did not take any action against accused. Thus complainant has approached this Commission.

5. Following issues have been raised against playschool and police:-

“Regarding play school :

I. On at least 3 occasions complainant had warned the school teacher / authorities about small children playing on the slide but they insisted that children love to play on slide. Again and again Complainant had requested them to please keep watch on the kids when playing on the slide and every time they had given assurance that they are very vigilant when children are playing on slide. But this did not happen in this case which is being revealed in the C.C.T.V. footage and child was left unattended.

II. The school authorities didn't inform complainant immediately after his child fell even though his contact numbers and residential address was with the school.

III. The Teacher has lied to complainant that child had not fallen, under her false assurance he has believed that nothing

have been happened and this delayed treatment of his daughter by 1 $\frac{1}{2}$  day.

IV. No first aid was provided by the teacher. The parents were not been informed. Doctor was not called.

V. They kept his child crying in playschool and made her to suffer for 2 hours, which could have been reduced, provided that to tell Complainant truth and informed immediately or would had been called a doctor.

VI. The Playschool does not have proper trained staff to handle such situation. However during time of admission it was assured by the owner that they have the services of trained teacher.

VII. In spite of having C.C.T.V. in premises the playschool's owners didn't check on regular basis how their teachers are handling the children.

VIII. The teacher was not apprehended by owner for telling lies. The owners (Mr.Manish Gupta and Mrs.Shyna) have supported her and kept mum on the incident.

IX. Plaintiff came to know later on that many playschool now-a-days have cushioned or padded floorings for the safety of children in case they used to fall however this playschool's flooring is not cushioned.

X. Playschool did not refund medical expenses / fees.

XI. Complainant needs compensation on the trauma of child.

Against Police :

i. Police has not informed about their action in the case even after passing period of four month. This matter is still under the process.

ii. The applicant has not informed about status of case.

6. The Complainant has submitted copy of F.I.R., X-Ray report etc. Respondent No.1 along his learned counsel appeared before the Commission on 24/4/2013, a written submission has been filed by him. In his reply the Respondents has refuted the charge and allegation leveled against teacher and staff. In the reply Respondent has mentioned that the injury caused not by commission/omission or conduct and act of teacher and staff. The respondent has raised the jurisdiction of Commission in this matter. The Respondent has mentioned that since matter is under court and by order of court he is on bail, therefore this Commission can not take up this matter. The respondent has mentioned that license is not required to run a playschool therefore permission was not received from any authority.

7. The matter heard by the Commission on 12/3/2013, 8/4/2013 and 23/4/2013. On 23/4/2013 the Respondent agreed to pay the medical expenses provided that Complainant shall produce the details of expenditure. The Applicant has submitted the details of expenditure on 9/5/2013.

8. Relevant issues which are needed to be considered in this matter is as :-

1) Whether Commission has power to conduct enquiry under provision of Commission for Child Right Act even if matter is before the court.

2) Whether owner of school is vicariously liable under the provision of law.

3) Whether running a play school without permission is contravention of Right to Education Act and Juvenile Justice Act.

4. Whether keeping the child below three years in a premise on the name of play school is against the provision of Juvenile Justice Act.

9. Answers ;

Re. Question No. 1 : The Commission has power to conduct enquiry under the provision of Child Right Act as Commission's

power is recommendatory. On the basis of outcome of enquiry Commission has been authorized to approach the court for action.

Re. Question No. 2 : Under the provisions of law, owner of school is vicariously responsible in this matter.

Re. Question No. 3 & 4 : Running play schools without permission of competent authority is not proper however law in this regard does not say anything. For children who are above three years old for them procedure under Section 11 of Right to Free and Compulsory Education Act, 2009 has been given and matter is left to the Government for framing the rule in this regard. However the law does not say anything regarding children who are below 3 years of age. So far Juvenile Justice (Care and protection), Act 2006 is concerned the said Act applies in the matter of those children who need care and protection and fall under the purview of Section 2(d) of J.J.(Care and Protection of Children) Act 2000. However this matter does not attract the provision of Section 2(d).

**10. After going through the contention raised by both the parties, relevant provision of law, the Commission's Recommendations are as follows:**

I) The State Government is directed to frame rules and guidelines in order to monitor and regularize play schools running in the state.

III) Owner of play school is directed to pay medical expenses as incurred on the medication of child, subject to the furnishing of receipt by the Applicant.



By order and seal of Commission.

(A.N.Tripathi)

I.F.S.

Secretary

Maharashtra state commission for  
protection of child rights