

Progressive Thinking Society v. Association of Parents of RTE Students^{*}

Progressive Thinking Society (PTS) is a private society established in the State of Kiliki, with the objects *inter alia* to provide quality schooling, promoting patriotism and universal brotherhood. It is not a minority institution. Kiliki is a state in the Union of India. The PTS has a chain of schools throughout the state which are known for their standards in education and discipline. They are popularly known as PTS Schools, which has acquired the state of an icon and has become a brand of its own. All the schools are unaided. Because of the success of its students in real life, there is always a lot of competition for admissions to these schools despite the high fee structure. The PTS has framed disciplinary rules which uniformly apply to their schools in consonance with its objectives. Viz:

Rule 3: All students should compulsorily attend the morning assembly and sing national anthem.

Rule 4: The “World Religions” classes conducted once a week are compulsory. Fundamentals of different major religions shall be taught in that class.

Rule 7: All students should attend the school in the uniform prescribed by the school and any additional outfit or ornament in the form of head gear, scarf, necklace, finger ring, etc. which reveal the religion of students are strictly prohibited.

Rule 8: No student shall bring or consume non-vegetarian food in the school premises.

Rule 9: A student violating these rules may be suspended from the classes for a period not exceeding 3 days at a time.

These rules were perceived as constraints by parents of a section of students admitted under Right to Education (RTE) quota to these schools, as their children were sometimes put to punishments by way of suspension from the class which lead to consequences ranging

¹ * Problem framed by Prof.C.S.Patil, Dean, Karnataka State Law University, Hubballi exclusively for the academic purpose of Moot Court Competition.

from being cajoled by fellow students to certain of the students developing aversion towards the schools. The news of some of the student being subjected to disciplinary action and the consequent humiliation was frequently reported. This caused the parents of the RTE students unite and form an association by name “Association of Parents of RTE Students” to address their common grievances. They felt that in a multi-religious and multi-cultural society, every person has a right to decide what he will eat, what he will wear, what religion he will practice and what faith he will pursue. At the same time the parents were also concerned about the education of their children and did not wish to strain relations with PTS. After several rounds of meetings, they appealed to the PTS to delete the contentious rules from the rulebook. The appeal was turned down by PTS.

With no alternative, they were constrained to approach the High Court of Kiliki contending that the rules of PTS were in violation of their fundamental rights and therefore were liable to be quashed. For PTS it was argued that, it was not a state for the purpose of fundamental rights. Further it was argued that they had accepted the RTE students as a matter of social responsibility and charity, especially in the light of the fact that the conformity of Art. 15(5) to basic structure of the Constitution was in doubt. Assuming but not accepting, it was argued that, if PTS was state, it has all the power to impose the reasonable restrictions and the impugned rules were only in the nature of reasonable restrictions.

The High Court held that the Society, even though a private entity was a state for the purpose of fundamental rights. It further held the disciplinary rules unconstitutional for violation of fundamental rights. Aggrieved by the decision, the PTS approached the Supreme Court by way of special leave. Appreciating the importance of the subject involved, the Supreme Court constituted a Nine Judge Bench to hear the petition. The bench has framed the following issues for consideration and has posted it for final hearing.

- 1 Whether the Constitution (Ninety-third Amendment) Act, 2005 which inserted new Art.15(5) is in conformity with the Basic Structure of the Constitution.

- 2 Whether a purely private entity is 'state' for the purpose of Part-III of the Constitution.
- 3 Whether the *Right of Children to Free and Compulsory Education Act, 2009* is constitutionally valid.
- 4 Whether the disciplinary rules framed by the PTS are ultravires the Constitution and the law.