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C.A.No. 7581 OF 1999
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dmbp
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Item No.103 COURT No. 2 SEC.XVI

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 7581/1999@@
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Brahmo Balika Shikshalaya & Anr.

Petitioner(s)

VERSUS

Debasis Kar Gupta & Ors.

Respondent(s)

(With Office Report)

Date : 18.09.2002 This appeal was called on for hearing today.@@
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CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIK
HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s) Mr. Pramod Swarup&Ms.Pareena Swarup,Advs.for
Mr. Praveen Swarup,Adv.

For the Respondent(s)

UPON hearing counsel, the Court made the following

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Heard the learned counsel for the appellants for
fifteen minutes.
The appeal stands dismissed in terms of signed order.

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(Y.P.Dhamija)
Court Master

(Suneet Bala Sharma)
Assistant Registrar

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7581/1999@@
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Brahmo Balika Shikshalaya & Anr.Appellant(s)

Vs.

Debasis Kar Gupta & Ors.Respondent(s)

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In this appeal the legality of the judgment of learned Single Judge of Calcutta High Court affirmed by the Division Bench is under question. The managing committee of Brahmo Balika Shikshalaya is the appellant, and according to the appellant the secondary section of the school constituting Classes V to X is an independent entity, and therefore the students from the preliminary section of that school also should take an entrance test for being admitted to Class V. There has been no finding of the High Court on the question whether the preliminary section and the secondary section of the same school constitute to separate entity. It is undisputed that the school runs in the name of Brahmo Balika Shikshalaya. It is true that the preliminary section is fully controlled by the Government of West Bengal under the relevant ..2/-

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statute, but we are not concerned with the control of the Government over the management of the institution. The question whether an entrance test should be held for the purpose of admission to a school arises only when a student of one institution seeks admission into another. It is certainly not necessary when a student of the same institution seeks admission from one Class to other of the same institution. This has been so held in a decision of this Court in The@@

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Principal, Cambridge School & Anr. Vs. Ms.Payal Gupta & ors.@@
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since reported in AIR 1996 SC 118. On examining the impugned@@
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judgment of the learned Single Judge as well as that of the Division Bench of Calcutta High Court, we see no infirmity with the same requiring our interference under Article 136 of the Constitution. It will create immense hardship to the students as well as their parents, if admission to Class V, which is the entry class of a secondary school is made on the basis of an entrance test, even for the students of that school who had passed the class IV, which is the last class of

primary standard. Mr. Pramod Swarup pointed out that no examination is held these days in primary classes. Even if that is correct, it will not make any difference, since the ..3/-

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student has undergone 4 years of studies in that school, from class I to class IV.

Under these circumstances, we are not inclined to interfere with the impugned judgment. The Civil Appeal stands dismissed.

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.....J.@@
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(G.B. PATTANAİK)@@
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.....J.@@
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(Y.K. SABHARWAL)@@
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New Delhi,
September 18, 2002

.....J.@@
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(H.K. SEMA)@@
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