

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6935 OF 2009

H.P. BOARD OF SCHOOL EDUCATION APPELLANT(S)

VERSUS

ARYA PRATINIDHI SABHA & ORS. RESPONDENT(S)

O R D E R

1. This civil appeal is directed against the judgment and order passed by the High Court of Himachal Pradesh whereby the High Court set aside the order of the Government of Himachal Pradesh implementing the orders of the State Government and cancelling the examination centres which were located in private schools. These directions were given by the State Government apparently in pursuance of a question raised in the Himachal Assembly about mass copying in the examination centres in private schools.

2. The High Court in addition to hold that private schools should be designated as examination centres, has directed that the

supervisory staff for invigilation should not belong to the institution where the examination centre is to be located.

3. We have heard learned counsel for the parties.

4. The relevant provisions of Section 10 of the Himachal Pradesh Board of School Education Act, 1968 read as follows :

"(2) conduct examinations based on such courses;

(3) admit to its examinations, on conditions that may be prescribed, candidates who pursue the prescribed courses of instructions-

(i) in recognised institutions; and

(ii) privately;

(19) appoint the examiners and supervisory staff and fix their remuneration;

(23) do all such other acts and things ancillary to any of the purposes specified above or for the purpose of carrying into effect the provisions of this Act."

5. It is plain from the above provisions that the power to conduct examination and to do all such acts as ancillary for this purpose is conferred on the Board. The power to designate an examination centre is clearly encompassed by these provisions and that power vests in the Board. Thus, we do not consider the direction in the judgment of the High Court to be proper since it has the effect of declaring that all private schools should be designated as examination centres. We leave it to the Board to designate such private schools as examination centres as it may appear to the Board to be proper having regard to the viability of each private school.

6. However, we set aside the direction of the High Court by which it has directed that invigilation staff etc. for the examination should not belong to the particular school where the examination centre is to be located. We accept the submission of Shri J.S. Attri, learned senior counsel appearing for the Board that

it is not possible to depute staff from outside the school where the examination centre is located. The real reason why the High Court made that direction was that to ensure that the staff involved in the invigilation shall be independent and vigilant and will be in a position to prevent copying or unfair means. We trust that the Government will only designate such private schools as examination centres where after an assessment, the Government is satisfied that the examination can be conducted in that school in a fair manner.

7. The civil appeal is disposed of in above terms.

.....J.  
[ S.A. BOBDE ]

.....J.  
[ L. NAGESWARA RAO ]

NEW DELHI,  
AUGUST 03, 2017.

ITEM NO.103

COURT NO.8

SECTION XIV

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

Civil Appeal No(s). 6935/2009

H.P.BOARD OF SCHOOL EDUCATION SECRETARY

Appellant(s)

VERSUS

ARYA PRATINIDHI SABHA & ORS.  
(With office eport)

Respondent(s)

Date : 03-08-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Appellant(s) Mr. J.S. Attri, Sr. Adv.  
Ms Promila, AOR  
Mr. Chandra Nand Jha, Adv.For Respondent(s) Ms. Parul Sharma, Adv.  
Ms. Shraddha Saran, Adv.  
Mr. Varinder Kumar Sharma, AORUPON hearing the counsel the Court made the following  
O R D E RThe appeal is disposed of in terms of the  
signed order.[ Charanjeet Kaur ]  
A.R.-cum-P.S.[ Indu Kumari Pokhriyal ]  
Branch Officer

[ Signed order is placed on the file ]