

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

WRIT PETITION NO.3485/2020 (PIL)

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...PETITIONERS

AND:

The Secretary to Govt.,
Department of Home,
and others.

...RESPONDENTS

STATEMENT OF OBJECTION FILED ON BEHALF OF
RESPONDENTS No. 1 to 4

Under Rule 21 of the Karnataka High Court Writ Proceeding Rules, the Respondents named above submit as follows:

1. It is respectfully submitted that the Petitioners have filed the above Writ Petition by way of public interest litigation and sought for issuing directions to the Investigation Officer to follow the prescribed rules for examination of minors in the Criminal Investigation and also to protect/ safeguard the interest of the minors during the examinations of the said minors as witnesses in the Investigation. The Petitioners have also sought for issuing guidelines to the Respondents in respect of examination of minors in

initiation of departmental
examination and questioning the minor students of
Shaheen Education Society, Bidar and also sought for
issuing directions for payment of compensation to the
parents or legal guardians of the minors who were alleged to
be examined in Shaheen school for the alleged emotions
and mental agony inflicting upon the students.

2. At the outset it is respectfully submitted that the Petitioners
are not entitled for any of the reliefs as prayed in the above
Writ Petition and the same is frivolous and also filed with
sole intention to dilute the investigation undertaken by the
Investigation officer who on following the prescribed
procedure has been conducting the Investigation without
violating any of the norms Rules and Regulations prescribed
either in the Police Manual or Juvenile Justice Act and
Rules. The averments, allegations and contentions urged in

Institution against the Act enacted by the Parliament known as the Citizenship (Amendment) Act, 2019. It is also averred in the said Complaint that, the Head of the Institution together with members of the management and staff together with the students of the School have organized the said play / Drama against the above Act and in the said complaint it is stated that in the play derogatory against the Hon'ble Prime Minister is also said to be made and the contentions of the written complaint is already been

produced by the Petitioners themselves and marked as Annexure-A to the Writ Petition.

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4. It is respectfully submitted that the above play said to be recorded by one Mr. Mohammed Yusuf and he has circulated through his facebook account to all social media. The Complainant has averred in his complaint the above Drama and words spoken in the Drama amounts to distributing communal harmony among the 2 groups of the Society and also convey false message about the Act entrusted by the Parliament and also it gives call for opposing the said Act.

5. It is submitted that, on receipt of the above complaint, the SHO registered the same in FIR for commission of offences under Sections 504, 505(2), 124(A), 153(A) r/w 34 of IPC. On receiving the above complaint on 26.01.2020 and on being registered the same in Crime No. 10/2020, the same was forwarded to the Judicial Magistrate First Class, Bidar.

6. It is submitted that the Superintendent of Police, Bidar being made known of the above complaint and taking note of the seriousness of the averments made by the

complainant in the said complaint, the said officer in turn has ordered for conducting of investigation by the Deputy Superintendent of Police, Bidar Sub Division, Bidar. The Superintendent of Police, Bidar District accordingly issued a memo on 26.01.2020 and thereby entrusted the investigation of the above crime in favour of the Dy.S.P., Bidar Sub Division, Bidar. Produced herewith true copy of the memo of the Superintendent of Police, Bidar District dated 26.01.2020 and the same is marked as **ANNEXURE-R1**.

7. It is submitted that the Dy.S.P., Bidar Sub Division, Bidar on receipt of the records pertaining to the above crime and thereby issued necessary letters in favour of the District Child Protection Officer, Bidar and to the President, Child Welfare Committee, Bidar on 27.01.2020 for extending their assistance for counseling children who participated in the Drama. The above letter were duly received by the above authorities and agreed to extend their assistance and the copy of the said correspondences dated 27.01.2020 is produced and marked as **ANNEXURE-R2 AND R3**.

8. It is submitted that, on issue of said letters, the investigating officers namely Deputy Superintendent of Police, Bidar Sub Division, Bidar along with his staff proceeded for conducting spot mahazar where the said Drama was conducted. On reaching the said site, the investigating Officer secured the presence of witness to the Mahazar and drew the spot mahazar on the said day and thereafter left the place / school premises without conducting any kind of counseling of the Children. No examination of any children on the said date was conducted. Further the Investigation officer had requested the school authorities for handing over the videos of the CCTV recording of the play conducted in the school premise but the school authorities refused to hand over the same on the said date.

9. It is submitted that, on 28.01.2020 the Investigation Officer again visited the school premises along with the witnessess and seized the Digital video Recorder (DVR) installed in the school premises. On seizing the said operator and recorded the statement of the Mahazar who have witnessed the seizure and also recorded the statement of the technician of the school who was monitoring the Digital Video Recorder.

Thereafter the Investigation Officer had removed his uniform and wore the civil dress and thereafter requested the school authorities for producing the Children who have participated in the Drama along with their class Teachers for counseling with the students. However, the administration of the school management orally informed the Investigation Officer that they will not produce or send the students out of the school premises and requested/ informed the Investigation Officer to conduct any kind of counseling or examination of the students within the school premises and the school authorities also accommodated the place namely the visiting room, in the school. Accordingly, the Investigation Officer together with the Child Protection Officer, Bidar namely Sri Gowrishankar and Special Juvenile Police Unit (SJPU) Member namely Smt. Jagadevi were made to enter the visiting room at the School and 3 children were produced by the school staff along with their respective teachers and one of the Parent of the 3 students were also produced before the Investigation Officer, as stated above on 28.01.2020.

10. It is submitted that the Investigation Officer was in civil dress but at that time his subordinates namely,

Investigation Officer could not provide any counseling of the students for the reason that the Investigation Officer had received information from reliable sources that the management is likely to send of the students and teachers from the school premises to avoid any kind of counseling by the Police authorities regarding the above incident. The Investigation Officer without any alternative and who was in the civil dress and in presence of the Child Protection Officer and in the presence of the Teachers and one of the Parent of the student and by setting up child friendly atmosphere, counseled with the children and gathered the information regarding the incident.

12. It is submitted that on 29.01.2020 no investigation was conducted neither any Police Officer visited the school premises since the Investigating Officer was on leave on

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30.01.2020. The Investigation Officer along with member of Child Welfare Committee, Bidar and Child Protection Officer, Bidar visited the school premises in civil dress and on the said date even the staff of the investigation team were all in civil dress only. On the said date 2 children were counseled. Thereafter on 01.02.2020 the Investigation Officer and his team along with District Child Protection Officer, President of the Child Welfare Committee visited the school premises in civil dress and counseled with several students in general and no opinion of the students were recorded. Thereafter, on 03.02.2020 and 04.02.2020, the Investigation Officer along with the Officer of the District Child Protection Unit and also the member of the Child Welfare Committee, Bidar visited the School premises and counseled the students who participated in the play and even on the said date, the Investigation Officer and his team were in civil dress only. On 04.02.2020, the Investigation team has counseled about 17 students only together with the teachers and non staff members of the school.

13. It is evident that the investigation team have not violated any of the rules and in particular Rule 86 (5) and (6) of the Juvenile Justice (Care and Protection of Children) Act, 2015

conveying certain information relating to the present investigation of the student Investigation Officer namely Deputy Superintendent of Police, Bidar Sub Division, Bidar who was at the school premises conducting the counseling with the children. The above Sub Inspector of Police has not conducted any kind of counseling nor examination of the students at the school premises and more particularly he is not part of the investigation team pertaining to the above incident. Thus, the allegation made by the Petitioners are all frivolous and incorrect.

15. It is submitted that the on the complaint received by the President, Karnataka State Children Rights Commission, Bengaluru had in turn directed the Superintendent of Police, Bidar District for submitting report regarding alleged violations of the rules in counseling the students / children at Shaheen School premises. The Superintendent of Police, Bidar District on receipt of the said requisition in turn instructed the Additional Superintendent of Police, Bidar District to conduct necessary enquiry and for submitting report in respect of the allegations made before the Karnataka State Children Rights Commission, Bengaluru.

16. It is submitted that the Additional Superintendent of Police, Bidar on receipt of the above requisition dated 06.02.2020 took up the matter for holding conducting necessary enquiry in respect of the allegations and thereafter secured the presence of 21 witnesses before him and recorded statements of all the witnesses. The Additional Superintendent of Police, Bidar had examined Mr. Mananseth s/o Abdul Hazeer Seth who is the brother of the Dr. Abdul Kahder Seth, who in turn is the President of the Shaheen Education Society, have deposed before the enquiry officer that is the investigation team have not

... witness also deposed that, one of the Child whose Mother was arrested and stated that at the request of the Child and on consulting of the Child Welfare Committee Member and Child Protection Officer, the custody of the child was handed over to the custody of the neighbor of the Child namely Mr. Hafeez Atheeq and his wife who have also undertook to take care and custody of the said child and they have also executed an undertaking to the Investigation Officer voluntarily. The other witnesses

who were enquired by the enquiry Officer have also deposed in similar terms. None of the witness have examined deposed any kind of violations being committed by the Investigation Officer and his team. Produced herewith the true copy of the correspondence dated 06.02.2020 of the Superintendent of Police, Bidar District and also enquiry report of the Additional Superintendent of Police and same was marked as **ANNEXURE- R5 AND R6**.

18. It is also relevant to submit that the Member, Karnataka State Child Rights Protection Commission, Bengaluru, Dr. Jayashree had also visited the school premises on 05.02.2020 and counseled with the students and the staff and management of the Shaheen Education Society. At the time of counseling, the District Child Protection Officer also participated at the time of the counseling with the students. The above member of the commission also interrogated with the Investigation Officer and also Superintendent of Police, Bidar. The above member was satisfied and opined that there is no violations of any rules and regulations committed while counseling with the students by the Investigation Officer and his team. The District Child Protection Officer, Bidar had submitted a report in favour of

the report and the

19. It is submitted that the Petitioner without verifying the truth have made false allegation against the Investigation Officer who conducted the Investigation independently without any violation of the rules and regulations. Even the school management also expressed its apology by publishing the news article in one of the newspaper for conducting such drama through the students of the school. The school management has tendered apology for the said action and the report of the news article is produced and submitted for kind perusal of the Hon'ble Court and marked as **Annexure-R8**.

20. It is submitted that the photographs of the visitation of the Member of the Karnataka State Child Rights Protection Commission, Bengaluru are produced and the same is marked as **ANNEXURE-R9 (a) and R9 (b) series**.

21. It is humbly submitted that the Petitioner has made various averments and allegations, they are denied in toto. It is humbly submitted that the Respondents also seek the leave of the Hon'ble Court to file additional statement of objections if any required during the course of hearing of the Writ Petition.

22. All other averments, which are not specifically traversed herein above, are all hereby denied as false and untenable.

WHEREFORE, it is respectfully prayed that this Hon'ble Court may be pleased to DISMISS the above Writ Petition in the interest of justice and equity.

Bengaluru,
Dated: /02/2020

acbalrajSO/lptp/SSL

(A.C. BALARAJ)
ADDL. GOVT. ADVOCATE
AND
ADVOCATE FOR RESPONDENT - STATE